



Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

**MID ULSTER**

**Archaeology and Built Heritage  
(Historic Built Environment)**

**February 2016**

## **Archaeology and Built Heritage**

**Purpose:** To provide members with an opportunity to consider existing planning policies as they pertain to Archaeology and Built Heritage and to consider the need for alternative policies in light of the forthcoming Local Development Plan.

**Content:** The paper provides information on:

- (i)** The legislative requirements for archaeology and built heritage and existing planning policies
- (ii)** Mid Ulster District Council (MUDC) objectives for archaeology and built heritage and the linkages between the MUDC objectives for future growth and the Sustainability Appraisal, Regional planning policy and Strategic Planning Policy Statement objectives
- (iii)** Consider existing policies and consider preferred and alternative policy options for archaeology and built heritage within the Local Development Plan

**Recommendation:** That the Planning Committee notes the findings and considers how this paper shall be used to inform the Preferred Options Paper (POP) and strategic policies in the Local Development Plan (LDP)

### **1.0 Introduction**

1.1 The purpose of this paper is to inform the Planning Committee of current planning policies associated with archaeology and built heritage and assess whether or not they are fit for purpose against the Council's objectives regarding the need to protect, conserve and enhance the Historic Built Environment through the new Local Development Plan (LDP) 2030.

1.2 This paper contains an assessment of how existing planning policies relevant to archaeology and built heritage take account of the Regional Development Strategy 2035 (RDS 2035), the Single Planning Policy Statement (SPPS), Sustainability Appraisal themes and the MUDC historic built environment objectives through the proposed LDP objectives.

1.3 It should be noted that the Department of the Environment (DOE) Historic Environment Division (HED) has the responsibility for the designation of archaeological sites, monuments, listed buildings, historic parks, gardens and demesnes and industrial heritage. It is the Council's role as the responsible authority to ensure the protection of these sites through the use of relevant planning policy i.e. Planning Policy Statement 6 – Planning, Archaeology and the Built Heritage. In addition the Council has responsibility for the identification and designation of conservation areas, an area of townscape or village

character, non-designated heritage assets and local landscape policy areas through the LDP process.

- 1.4 The historic environment is an asset of enormous cultural, social, economic and environmental value, contributing to our sense of history, place and quality of life. The historic environment covers a wide range of heritage assets. This will include areas, buildings, features and landscapes with statutory protection together with those parts of the historic environment which are locally valued and important and also the historic character of the landscape and townscape. It is important to recognise the irreplaceable nature of built heritage assets, whether above or below the ground. It is critical that such heritage assets are preserved and improved for the enjoyment and benefit of future generations.
- 1.5 The historic built environment has the potential to bring forward multi-faceted sustainability benefits as an environmental and cultural asset, but also an important driver for economic development and delivering social objectives for improving health and well-being. For example heritage-led regeneration can provide opportunities for sustainable tourism, leisure and heritage based recreation activities, and help to strengthen the character of place. In terms of local tourism Mid Ulster's built heritage assets<sup>1</sup> are a key unique selling point that could be promoted.

## **2.0 Legislative Context**

2.1 Part 4 of the Planning Act (Northern Ireland) 2011 sets out the statutory requirements for Listed Buildings and Conservation Areas. Part 8 of the Planning Act (Northern Ireland) 2011 sets out the statutory requirements for Further Provisions as to Historic Buildings.

2.2 Sections 80 to 103 sets out the legislative context specific to Listed Buildings and Sections 104 to 106 sets out the legislative context specific to Conservation Areas.

Further details of the Legislative basis for built heritage please refer to Appendix One.

2.3 Legislation relevant to archaeological sites, monuments and areas of potential archaeological interest is set out in the Historic Monuments and Archaeological Objects (NI) Order 1995.

Other relevant subordinate legislation, including Regulations and Directions, which must be taken into account include;

- The Planning (Listed Buildings) Regulations (Northern Ireland) 2015
- The Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 2015
- The Planning (Conservation Areas) (Consultation) Regulations 2015
- The Planning (General Permitted Development) Order (Northern Ireland) 2015<sup>2</sup>

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<sup>1</sup> Position Paper –environmental Assets Mid Ulster, July 2015

<sup>2</sup> Article 4 Directions, PPS 6

- Planning (Northern Ireland) Act 2011 Planning (Control of Demolition in Conservation Areas) Direction 2015

- 2.4 While designation as a conservation area introduces additional controls over demolition of existing buildings and historic features the Council also has the power to make Article 4 directions to remove certain permitted development rights<sup>3</sup>. In the case of unlisted buildings the Planning (General Permitted Development) Order (NI) 2015 allows a vast range of works to be carried out without the need to apply for planning permission. Many of these small scale 'permitted development' works such as the replacement of traditional timber or metal windows with plastic windows in modern styles, can significantly harm the character and appearance of historic buildings and areas.
- 2.5 The effect of an article 4 direction is not that development within the particular category of permitted development can't be carried out, but simply that it is brought under planning control, i.e. a planning application must be submitted. This does not necessarily mean that the Council will refuse permission for the works but it does enable the Council to retain some control over the design and detailing of the proposed development and to grant permission subject to appropriate conditions.
- 2.6 Under Article 4(2) of the Planning (General Permitted Development) Order (NI) 2015, a council must have the approval of the Department. The Department may approve the direction with or without modification. Submissions to the Department should be made in accordance with Article 4(3). There are also adoption obligations for the council that need to be undertaken contained in Article 5.

### **3.0 The Objectives**

#### **(a) Mid Ulster Council**

- 3.1 Position Paper One<sup>4</sup> outlined a number of policy objectives that will assist in formulating the aim and objectives for the historic built environment in the LDP. One of these objectives was to enhance the environment and improve infrastructure, namely;
- The need to protect and enhance the natural and built environment to achieve biodiversity, quality design, enhanced leisure and economic opportunity and promote health and wellbeing.
- 3.2 The statutory requirement to protect designated archaeological sites, monuments and the built heritage, such as listed buildings, is reflected in the above strategic policy objective for the LDP.

#### **(b) Sustainability Appraisal (SA) Objective**

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<sup>3</sup> The planning (General Permitted Development) Order (Northern Ireland) 2015

<sup>4</sup> Position Paper One Population and Growth, September 2014, Mid Ulster

- 3.3 It is important to note that all LDP strategic planning policies will be subject to a Sustainability Appraisal incorporating a Strategic Environmental Assessment (SEA)<sup>5</sup>.
- 3.4 A key objective of the Sustainability Appraisal<sup>6</sup> should be to conserve and, where appropriate, enhance the historic environment and cultural assets. Current and future planning policies should take account of the need to;
- Protect and enhance Conservation Areas and other sites, features and areas of historical and cultural value;
  - Protect Listed Buildings and their settings; and
  - Help preserve, enhance and record archaeological features and their settings
- 3.5 A further key objective of the SA is to maintain and enhance the character and quality of landscapes and townscapes. Most SEA/SAs also require a specific objective for landscape/townscape. Current and future planning policies should take account of the need to;
- Enhance the quality of priority areas of townscape and public realm enhancements
  - Improve the visual amenity of open spaces
  - Protect and enhance local distinctiveness and sense of place
  - Minimise visual intrusion and protect views
- 3.6 In order to meet the requirements of the SEA Directive to assess impacts on cultural heritage the LDP should include a specific objective for the historic environment, namely, to conserve and enhance the historic environment, heritage assets and their settings. In addition it may be appropriate to have other objectives covering the three pillars of environment, social and economic.
- 3.7 Environmental Objectives may include;
- Protect, enhance and manage the character and appearance of landscapes/townscapes, maintaining and strengthening local distinctiveness and sense of place
  - Protect, manage and, where necessary, improve local environmental quality
  - Achieve high quality and sustainable design for buildings, spaces and the public realm sensitive to the locality
- 3.8 Social Objectives may include;
- Improve and broaden access to, and understanding of, local heritage, historic sites, areas and buildings
  - Provide better opportunities for people to access and understand local heritage and to participate in cultural and leisure activities
- 3.9 Economic Objectives may include;
- Foster heritage-led regeneration

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<sup>5</sup> Strategic Environmental Assessment, Sustainability Appraisal and the Historic Environment, Historic England

<sup>6</sup> Appendix II Mid Ulster Sustainability Assessment Incorporating Strategic Environmental Assessment June 2015

- Optimise the use of previously developed land, buildings and existing infrastructure
  - Promote heritage based sustainable tourism
  - Support the sustainable use of historic farmsteads
- 3.10 Sustainable development requires an integrated approach and therefore if the historic environment clearly underpins the character, economy or cultural resources of a place, it may warrant inclusion in other LDP themes such as regeneration, tourism, access to services, landscape and townscape.
- 3.11 MUDC has commenced work on the preparation of the required Sustainability Appraisal and associated Strategic Environmental Assessment<sup>7</sup>.

### **(c) Regional Development Strategy 2035 (RDS) and the Strategic Planning Policy Statement (SPPS)**

- 3.12 The RDS provides an overarching strategic planning framework to facilitate and guide the public and private sectors. It addresses economic, social and environmental issues aimed at achieving sustainable development and social cohesion. This overarching document sets out clear objectives for archaeology and built heritage that have been fully considered within the formulating for the objectives of the SPPS.
- 3.13 The SPPS is a statement of the Department's policy on important planning matters that should be addressed across Northern Ireland and was formally adopted in September 2015. It has been agreed with the Northern Ireland Executive and its objectives have been judged to be in general conformity with those of the RDS 2035.
- 3.14 The SPPS sets out a number of core planning principles one of which is *Preserving and Improving the Built and Natural Environment*. The exceptional quality of our local environment provides an important contribution to our sense of place, history and cultural identity. It plays a critical role in supporting the local economy, and must continue to do so through sustainable economic development activity. The quality of our local environment can also influence our health and well-being, and help tackle social deprivation. An integrated approach to the management of the historic built environment within the district is required. The planning system plays a key role in conserving, protecting and enhancing the historic built environment whilst ensuring it remains responsive and adaptive to the everyday needs of society. This is an important objective related to the need to further sustainable development. LDP policies should seek to conserve, protect and enhance the district's unique historic environment, including archaeological sites.
- 3.15 In addition, the SPPS highlights that a central challenge in furthering sustainable development is the need to mitigate and adapt to climate change while improving air quality. These objectives can be facilitated by identifying and implementing opportunities to build resilience into the historic built

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<sup>7</sup> Draft Scoping SA/SEA Report, MUDC, January 2016

environment by for example the sustainable re-use of historic buildings<sup>8</sup>. Policies should also seek to implement sustainable strategies to explore, address and manage significant flood risk for example retrofitting historic buildings with flood prevention measures.

- 3.16 It may be useful to note that a SEA scoping report was prepared for the SPPS<sup>9</sup>, which included the theme of cultural heritage. The report noted that cultural heritage may be at risk from coastal flooding and erosion related to a changing climate. Other pressures include development, changing land use, agricultural practices, vandalism/theft, renewable energy, funding, visitors, skills, materials and maintenance.
- 3.17 The regional strategic objectives contained within the SPPS for archaeology and built heritage are to:
- secure the protection, conservation and, where possible, the enhancement of our built and archaeological heritage;
  - promote sustainable development and environmental stewardship with regard to our built and archaeological heritage; and
  - deliver economic and community benefit through conservation that facilitates productive use of built heritage assets and opportunities for investment, whilst safeguarding their historic or architectural integrity.
- 3.18 Councils must take into account the implications of strategic policy<sup>10</sup> in the preparation of LDPs and in the determination of planning applications. The LDP, should identify the main built and archaeological heritage features, where they exist within the plan area, and bring forward appropriate policies or proposals for their protection, conservation and enhancement. It should also take into account the implications of its other local policies and proposals on all features of the archaeological and built heritage and their settings.
- 3.19 The SPPS sets out regional strategic policies that must be taken into account in the preparation of the LDP. The regional strategic policies are:
- **World Heritage Sites**
  - **Archaeology**
  - **Listed Buildings**
  - **Historic Parks, Gardens and Demesnes**
  - **Conservation Areas**
  - **Areas of Townscape Character (ATC)<sup>11</sup>**
  - **Non-Designated Heritage Assets**
  - **Enabling Development**

For further details on the SPPS Archaeological and Built Heritage Regional Strategic Policy and Implementation please refer to Appendix Two.

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<sup>8</sup> Lose or re-use managing heritage sustainably, UAHS

<sup>9</sup> SPPS, SEA Scoping Report, ADAS, October 2013

<sup>10</sup> Regional Strategic Policy for Archaeology and built heritage, paragraphs 6.5 to 6.27, pages 38 to 42, SPPS

<sup>11</sup> For the purpose of the SPPS all references to Areas of Townscape Character should be read as including Areas of Village Character

## **(d) Community Plan**

- 3.20 Section 66 (6) of the Local Government Act (NI) 2014 requires that;
- ‘...in the discharge of its duties under subsection (1) a council must where appropriate have regard to its plan strategy and its local policies plan under sections 8 and 9 of the Planning Act (NI) 2011.’*
- 3.21 Subsection (1) states that the Council must initiate, maintain, facilitate and participate in community planning for its district. In other words the Local Development Plan must have regard to the community plan and vice versa.
- 3.22 The Community Planning Team of MUDC carried out public community consultation in October – December 2014 in the preparation of the draft Community Plan<sup>12</sup>. Although the feedback did not include anything specific regarding the historic environment a need to develop local tourism utilising local heritage assets was identified e.g. Lough Neagh and the Sperrins. It was suggested that a joined-up Mid-Ulster Heritage Trail linking key sites and places should be put in place supported by good signage and improved facilities.
- 3.23 Full public consultation of the draft Community Plan is due to commence in the summer of 2016.

### **4.0 Evaluation and Assessment of Planning Policy Statement 6 – Planning, Archaeology and the Built Heritage**

- 4.1 Planning Policy Statement 6, its addendum and Planning Policy Statement 23 set out the existing planning policies for the protection and conservation of archaeological remains and features of the built heritage. They embody the Government’s commitment to sustainable development and environmental stewardship.

**It should be noted that all evaluations and assessments are based on datasets supplied by NIEA, dated 2014.**

- 4.2 **It is acknowledged that these datasets will need to be updated by DOE Historic Environment Division (HED) and the Planning Department of MUDC prior to the production of the Preferred Options Paper. Other sources of archaeological and built heritage data may also become available. Source data should be kept under constant review.**
- 4.3 It should be noted that a workshop focused on the topic of the Historic Built Environment took place in November 2015. The attendees included Council Members, Planning Committee Members and Council Officers. All feedback from the workshop has been taken into consideration in the preparation of this paper.

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<sup>12</sup> The Mid-Ulster Community Plan: Community Consultation Feedback A Summary, March 2015



## Key Questions

1. **In relation to the historic built environment, do the policies of PPS 6 accord with the objectives of the;**
  - **Regional Strategic Policy of the SPPS;**
  - **the Local Development Plan objectives, and;**
  - **the Sustainability Appraisal**
  
2. **Whether or not the Council needs to bring forward alternative tailored strategic policy for the historic built environment.**

### Archaeology

- 4.4 The SPPS requires that where appropriate the LDP should designate Areas of Significant Archaeological Interest (ASAs.) Such areas may include archaeological sites and monuments in State Care, scheduled monuments and all other sites and monuments (unscheduled) located within the plan area and should seek to identify distinctive areas of the historic landscape in Northern Ireland. Such designations are likely to include a number of individual and related sites and monuments and may also be distinguished by their landscape character and topography. Policies for the protection of the overall character and integrity of these distinctive areas should be included in the LDP. It is the Council's responsibility in association with the Department's Historic Environment Division and Historic Monuments Council to identify and formally designate ASAs.
- 4.5 In addition, the LDP should identify areas of Archaeological Potential within defined settlement limits. Local policies or proposals for the protection of the overall character and integrity of these distinctive areas should be included in LDPs, where relevant<sup>13</sup>
- 4.6 Mid Ulster may wish to consider the designation of Areas of Significant Archaeological Interest (ASAs) and Areas of Archaeological Potential (AAPs) where appropriate for sites and monuments of both regional and local importance and their settings.

Further details regarding PPS 6 please refer to Appendix Three

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<sup>13</sup> The Historic Monuments Council is a statutory body appointed to advise the Department on the exercise of its powers under the Historic Monuments and Archaeological Objects (NI) 1995, particularly with regard to the scheduling and protection of monuments. It must also be consulted on the identification of ASAs

## The Preservation of Archaeological Remains of Regional Importance and their Settings

- 4.7 SPPS regional strategic policy states archaeological remains of regional importance include monuments in State Care, scheduled monuments and Areas of Significant Archaeological Interest (ASAs). Such sites (or constituent parts of them) benefit from statutory protection<sup>14</sup>. Development which would adversely affect such sites or the integrity of their settings must only be permitted in exceptional circumstances.

### **Policy Options**

- 4.8 **Option 1 - The Preservation of Archaeological Remains of Regional Importance and their Settings:** Policy BH1 refers to the preservation of archaeological remains of regional importance and their settings. The existing policy states that there will be a presumption in favour of the physical preservation in situ of archaeological remains of regional importance and their settings. Such regionally important sites & monuments include State Care, scheduled monuments and other important sites and monuments which would merit scheduling. The existing policy approach states that development proposals that would adversely affect such sites of regional importance or the integrity of their settings will not be permitted unless there are exceptional circumstances.
- 4.9 With regard to this policy exceptional circumstances are likely only to apply to proposals of overriding regional importance in the NI context, i.e. regionally significant planning applications. With regard to the settings of such regionally important sites and monuments the following key issues will need to be addressed;
- The critical views of, and from the site or monument;
  - The access and public approaches to the site or monument; and
  - The understanding and enjoyment of the site or monument by visitors.
- 4.10 In addition to each development proposal being assessed on its own merits, a second key control mechanism within this policy is that all development proposals that would impact on such regionally important sites and monuments will require an application for scheduled monument consent from the appropriate authority, namely, DOE Historical Environment Division. Finally, any planning application involving an archaeological site or monument of regional importance will require an archaeological assessment, (Policy BH3 & BH4).
- 4.11 Based on information provided by DOE HED datasets this existing policy takes account of and has regard to legislative requirements, regional planning policy and sustainability appraisal objectives at the strategic level in that it seeks to secure the protection, and conservation of regionally important archaeological remains. The policy as it stands complies with statutory requirements. The thrust of the existing planning policy also takes account of the Council's own strategic objective to protect and enhance the built environment.

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<sup>14</sup> Scheduled sites are protected under the Historic Monuments and Archaeological Objects (NI) Order 1995

- 4.12 **Option 2 - Alternative Policy Approach A** – Council may wish to develop new policy by introducing **Special Countryside Areas** within which all types of development can be restricted. The benefit of applying such a policy would prevent all development within a defined area thereby protecting and conserving any regionally significant archaeological remains in situ. This could be regarded as a blanket ban on all development similar to countryside policy areas.
- 4.13 The problem with this approach is that all types of development would be banned regardless of whether or not the development proposal would have a detrimental impact on the archaeological site or monument of regional importance. It would severely limit the economic and social development of such a site, monument or area and place undue hardship on existing residents and businesses.
- 4.14 **Option 3 – Alternative Policy Approach B** – Council may wish to consider that in addition to the existing Policy BH1 Mid Ulster could introduce specific **Areas of Constraint** within Areas of Significant Archaeological Interest (ASAs), certain types of development may be constrained, for example tall/high structures. The benefit of applying such a policy would be that specific types of development which adversely impact upon the ASAI could be refused planning permission. This policy approach would protect and conserve ASAs and their settings from inappropriate development that would detrimentally impact on the value of the statutorily protected assets. The problem with this approach would be the definition of the criteria to identify the types of development to be restrained.
- 4.15 A separate policy based on discrete topics such as tall/high structures may be prepared at a later stage of the LDP process.

#### **Preferred Option**

- 4.16 It is considered that Option 3 is the preferred approach at this time which ensures that where relevant protection is provided. In adopting this approach a policy could be worded along the following lines:
- **Within ASAI's development proposals for large scale development and high structures including masts, pylons, wind turbines will be in conflict with the plan.**
  - **For those archaeological monuments or sites of Regional Importance where the setting is particularly important such as 'Beaghmore', an Area of Constraint will be introduced within which a policy to protect the heritage asset against the adverse impact of over-dominant structures shall apply and where there is no area of constraint identified it will remain a material consideration.**
  - **Elsewhere development proposals which adversely impact upon archaeological remains of Regional Importance and the integrity of their settings will not be permitted.**
  - **An exception may be made for an essential public utility to serve the local community which has minimal impact on the monument or site of archaeological Regional Importance.**

## The Protection of Archaeological Remains of Local Importance and their Settings

- 4.17 SPPS regional strategic policy states that development proposals which would adversely affect archaeological remains of local importance or their settings should only be permitted where the planning authority considers that the need for the proposed development or other material considerations outweigh the value of the remains and/or their settings.

### **Policy Options**

- 4.18 **Option 1** – The Protection of Archaeological Remains of Local Importance and their Settings Policy BH2 relates to the protection of archaeological remains of local importance and their settings. Locally important sites and monuments are those that are not scheduled but are capable of providing evidence about our past. Many are archaeologically important in the local context or valued by the community and therefore require safeguarding via the planning process.
- 4.19 The existing policy states development proposals which would adversely affect archaeological sites or monuments which are of local importance (or their settings) will only be permitted where the local authority considers that the proposed development outweighs the value of the remains in question.
- 4.20 A key control mechanism for this policy is that an assessment of the value of an archaeological site or monument of local importance is carried out on an individual case by case basis. A number of assessment factors are used which may include;
- Appearance: distinctive features in the landscape/townscape or local landmarks;
  - Quality: well-preserved or extensive buried remains;
  - Folklore/historical interest: associated with a person or event in local tradition or legend;
  - Group value: one of a number of locally important sites; and
  - Rarity: a locally rare example
- 4.21 Another key control mechanism that may be utilised is consultation with the appropriate statutory body, in this case, DOE Historic Environment Division. The benefit of this existing policy is that it protects, conserves and enhances sites or monuments of local importance, however the issue is that it is open to interpretation and there may be a lack of a consistent approach.
- 4.22 Based on information provided by DOE HED datasets this existing policy takes account of and has regard to legislative requirements, regional planning policy and sustainability appraisal objectives at the strategic level in that it seeks to secure the protection, and conservation of locally important archaeological remains. The policy as it stands complies with statutory requirements. The thrust of the existing planning policy also takes account of the Council's own strategic objective to protect and enhance the built environment.
- 4.23 **Option 2** - *Alternative Policy Approach A* – Council may wish to develop new policy by introducing **Special Countryside Areas** within which all types of

development can be restricted. The benefit of applying such a policy would prevent all development within a defined area related to the identified site or monument of local importance, therefore protecting and conserving any locally significant archaeological remains in situ. This could be regarded as a blanket ban on all development similar to countryside policy areas, which would protect and conserve the sites and monuments of local importance and their settings as no development would be permitted.

- 4.24 The problem with this approach is that all types of development would be banned regardless of whether or not the development proposal would have a detrimental impact on the archaeological site or monument of local importance. It would severely limit the economic and social development of such a site, monument or area and place undue hardship on existing residents, businesses etc.
- 4.25 **Option 3 – Alternative Policy Approach B** – In addition to the existing policy BH2 Mid Ulster may wish to consider the introduction of **Areas of Constraint** within Areas of Archaeological Potential certain types of development may be constrained, for example tall/high structures. The benefit of applying such a policy would prevent certain types of development which may adversely impact upon the site or monument of local importance by restricting or restraining what is acceptable and what should be refused planning permission. This approach would strengthen the existing list of assessment factors when determining the local significance of the site or monument. This policy approach would protect and conserve sites and monuments of local importance and their settings from inappropriate development.
- 4.26 The problem with this approach would be the definition of the criteria to identify the types of development to be restrained. Given the number of identified unscheduled archaeological sites and monuments and their setting within Mid Ulster (over 1,000) the application of such a policy would be impractical.
- 4.27 A separate policy based on discrete topics such as tall structures may be prepared at a later stage of the LDP process.

### **Preferred Option**

- 4.28 It is considered that Option 1 is the preferred approach at this time which ensures that where relevant protection is provided. In adopting this approach a policy could be worded along the following lines:
- **Development proposals which adversely impact upon archaeological remains of Local Importance and the integrity of their settings will not be permitted.**
  - **An exception may be made for an essential public utility to serve the local community which has minimal impact on the monument or site of archaeological Regional Importance.**

- 4.29 SPPS strategic policy states that planning authorities should seek all necessary information from applicants in making well informed planning judgements, particularly where the impact of a development proposal on archaeological remains is unclear, or the relative significance of such remains is uncertain. Should an applicant fail to provide a suitable assessment or evaluation on request, the planning authority should adopt a precautionary approach and refuse planning permission.
- 4.30 SPPS strategic policy states that where a planning authority is minded to grant planning permission for development which will affect sites known or likely to contain archaeological remains, it should ensure that appropriate measures are taken for the identification and mitigation of the archaeological impacts of the development. Where appropriate, this may involve the preservation of remains in situ, or a licensed excavation, recording examination and archiving of the archaeology by way of planning conditions<sup>15</sup>.

### **Policy Options**

- 4.31 **Option 1 – Archaeological Assessment and Evaluation and Mitigation**  
Policy BH3 states that where the impact of a development proposal on important archaeological remains is unclear, or the relative importance of such remains is uncertain, the Department will normally require developers to provide further information in the form of an archaeological assessment or an archaeological evaluation. Where such information is requested but not made available the Department will normally refuse planning permission.
- 4.32 Prospective developers need to take into account archaeological remains and should deal with them from the beginning of the development control process. The planning authority may use its powers to request an archaeological assessment or an archaeological evaluation.
- 4.33 Policy BH4 Where it is decided to grant planning permission for development which will affect sites known to contain archaeological remains, the Department will impose conditions to ensure that appropriate measures are taken for the identification and mitigation of the archaeological impacts of the development, including where appropriate the completion of a licensed excavation and recording of remains before development commences.
- 4.34 The preservation in situ of important (regional) archaeological remains is always the preferred option. However, in some circumstances, it will be possible to permit development proposals which affect archaeological remains to proceed provided appropriate archaeological mitigation measure are in place which preserve the remains in the final development or ensure excavation recording prior to destruction.
- 4.35 It should be noted that these existing planning policy allows each development proposal is assessed on its own merits. In addition the option of consultation

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<sup>15</sup> Archaeological excavations may only be carried out under the provision of a licence granted by the Department under the provisions of the Historic Monuments and Archaeological Objects (NI) Order 1995

with DOE Historical Environment Division, the statutory body responsible for the historic built environment may be contacted for advice and guidance.

- 4.35 Based on information provided by DOE HED datasets these existing policies take account of and has regard to legislative requirements, regional planning policy and sustainability appraisal objectives at the strategic level in that it seeks to secure the protection, and conservation of important archaeological remains. The policy as it stands complies with statutory requirements. The thrust of the existing planning policy also takes account of the Council's own strategic objective to protect and enhance the built environment.
- 4.36 **Option 2 - Alternative Policy Approach A** – Council may wish to consider removing the requirement to carry out archaeological assessments or evaluations and/or mitigation measures however this would result in the loss of regionally and locally important archaeological sites and monuments within the Mid Ulster district and would not take into account regional planning policy including the SPPS, Sustainability Appraisal objectives or statutory legislation. It would also not comply with the Mid Ulster Council's own strategic objective to protect and enhance the built environment.
- 4.35 **Option 3 – Alternative Policy Approach B** – Council may wish to consider simplifying and combining existing Policy BH3 and Policy BH4 to integrate the requirement of archaeological assessment and evaluation with options for archaeological mitigation.

#### **Preferred Option**

- 4.36 It is considered that Option 3 is the preferred approach at this time which ensures that where relevant protection is provided. In adopting this approach a policy could be worded along the following lines:
- **Within an Area of Significant Archaeological Interest (ASAI) and Area of Archaeological Potential (AAP) developers will be required to submit an archaeological assessment and an archaeological evaluation.**
  - **Elsewhere when the impact of a development proposal on important archaeological remains is unclear, or the relative importance of such remains is uncertain, the submission of an archaeological assessment and an archaeological evaluation will be required.**
  - **Where planning permission for a development proposal is granted there will be a presumption in favour of preserving the archaeological remains in situ where appropriate.**

In assessing such application conditions will be imposed to ensure the appropriate measures are taken for the identification and mitigation of the archaeological impacts of the development, including where appropriate the completion of a licensed excavation and recording of remains.

#### **World Heritage Sites**

- 4.37 World Heritage Sites (WHS) are designated under the UNESCO World Heritage Convention of 1972 on the basis of their acknowledged 'Outstanding Universal Value'. Given their acknowledged international importance, it will be appropriate for a LDP having a WHS within the plan area, to identify the site and its broader setting and to include local policies or proposals to safeguard the Outstanding Universal Value of such sites and their settings from inappropriate development.
- 4.38 SPPS regional policy for World Heritage Sites states that development that would adversely affect the Outstanding Universal Value of a World Heritage Site (WHS) or the integrity of its setting must not be permitted unless there are overriding exceptional circumstances.
- 4.39 Inclusion of a WHS on a list published by UNESCO highlights the outstanding international importance of the site as a material consideration in the determination of planning and listed building consent applications, and appeals. Planning authorities must carefully consider applications affecting the Outstanding Universal Value of such sites, particularly taking into account the safeguarding of critical views to and from the site, the access and public approaches to the site and the understanding and enjoyment of the site by visitors.

It should be acknowledged that at this time Mid Ulster does not have a World Heritage Site within its plan area.

- 4.40 **If a WHS is designated within Mid Ulster during the timeframe of the LDP than a bespoke policy for that named WHS shall be adopted. Until such times as Mid Ulster has a WHS the SPPS regional strategic policy for WHS shall be in place.**

#### Historic Parks, Gardens and Demesnes

- 4.41 A Register of Parks, Gardens and Demesnes of special historic interest in Northern Ireland, based on a comprehensive inventory, is held by the Department<sup>16</sup>. Councils should identify Historic Parks, Gardens and Demesnes along with their settings through the LDP, having regard to the register and supplementary lists; and bring forward local policies or proposals for the protection of the overall character and integrity of these distinctive areas, in consultation with the Department.

#### The Protection of Parks, Gardens and Demesnes of Special Historic Interest

- 4.42 SPPS regional policy states that planning permission should not be granted for development that would lead to the loss of, or cause harm to, the overall character, principal components or setting of Historic Parks, Gardens and Demesnes.
- 4.43 In assessing applications for development in or adjacent to Historic Parks, Gardens and Demesnes, particular account should be taken of the impact of the proposal on the archaeological, historical or botanical interest of the site.

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<sup>16</sup> [www.doeni.gov.uk/niea](http://www.doeni.gov.uk/niea)



The integrity and overall quality and setting of the site including its original design concept and other associated features, including contribution to local landscape character, should where possible be maintained. In cases where approval is to be granted, the planning authority should seek to ensure the accurate recording of distinctive features that will be lost as a result of the development, by way of planning conditions.

### **Policy Options**

- 4.44 **Option 1 - The Protection of Parks, Gardens and Demesnes of Special Historic Interest** Policy BH6 The planning authority will not normally permit development which would lead to the loss of, or cause harm to, the character, principal components or settings of parks, gardens and demesnes of special historic interest. Where planning permission is granted this will normally be conditional on the recording of any features of interest which will be lost before development commences.
- 4.45 In assessing proposals for development in or adjacent to parks, gardens and demesnes of special historic interest particular attention will be paid to the impact of the proposal on:-
- The archaeological, historical or botanical interest of the site;
  - The site's original design concept, overall quality and setting;
  - Trees and woodland and the site's contribution to local landscape character; any buildings or features of character within the site including boundary walls, pathways, garden terraces or water features; and
  - Planned historic views of or from the site or buildings within it.
- 4.46 A key control mechanism for this policy is that an assessment of the value of the historic park, garden or demesnes is carried out on an individual case by case basis. Another key control mechanism that may be utilised is consultation with the appropriate statutory body, in this case, DOE Historic Environment Division (HED).
- 4.47 Based on information provided by DOE HED datasets this existing policy takes account of and has regard to legislative requirements, regional planning policy and sustainability appraisal objectives at the strategic level in that it seeks to secure the protection, and conservation of historic parks, gardens and demesnes. The policy as it stands complies with statutory requirements. The thrust of the existing planning policy also takes account of the Council's own strategic objective to protect and enhance the built environment.
- 4.48 **Option 2 - *Alternative Policy Approach*** A Council may wish to consider developing a new policy which strengthens the desire to protect, conserve and enhance historic parks, gardens and demesnes by introducing **Special Policy Areas** within which all types of development can be restricted. The benefit of applying such a policy would prevent all development within a defined area related to the identified historic park, garden or demesnes. This could be regarded as a blanket ban on all development similar to countryside policy areas.

- 4.49 The problem with this approach is that all types of development would be banned regardless of whether or not the development proposal would have a detrimental impact on the historic park, garden or demesnes. It would severely limit the economic and social development of such an area and place undue hardship on existing residents and businesses.
- 4.50 **Option 3 - Alternative Policy Approach B** In addition to the existing policy BH6 Mid Ulster may wish to consider the introduction of an Enabling Development<sup>17</sup> approach to the re-use, restoration or refurbishment of historic park, gardens or demesnes. Such enabling development will only be permitted where it can be clearly demonstrated by the applicant in the submission of a Statement of Justification which must accompany an application for planning permission that the development proposal will assist with the protection, conservation and enhancement of the historic character of the built asset.
- 4.51 The problem with such a policy is that important historic character, features and structure may be lost due to unsympathetic and inappropriate development that would otherwise not be allowed. The historical and community value of the built heritage asset could be lost or degraded.

Further consideration may be given to a separate Enabling Development policy for the Conservation of Significant Places<sup>18</sup>.

### **Preferred Option**

- 4.52 It is considered that Option 1 is the preferred approach at this time which ensures that where relevant protection is provided. In adopting this approach a policy could be worded along the following lines:
- **Development that does not harm the character, intrinsic value or conservation of a historic park, garden and demesnes will accord with the plan.**
  - **Development which would adversely harm the historic character, principal components or setting of historic parks, gardens and demesnes will not be permitted.**

Where planning permission is granted this will be conditional on the recording of any feature of interest.

### **Listed Buildings**

- 4.53 Listed buildings are designated by the Department as being of 'special architectural or historic interest' under Section 80 of the Planning Act (NI) 2011. Whilst it may be impractical for a LDP to identify all current listed buildings throughout the plan area, it may be appropriate to highlight particular listed

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<sup>17</sup> Planning Policy Statement 23, 'Enabling Development for the Conservation of Significant Places', April 2014, DOE

<sup>18</sup> A significant place means any part of the historic environment that has heritage value including scheduled monuments, archaeological remains, historic buildings (both statutory listed or of more local significance) together with any historically related contents, industrial heritage, conservation areas, or historic park garden or demesne.

buildings and their settings which are integral to the character and inform broader heritage designations.

- 4.54 Listed Buildings of special architectural or historic interest are key elements of our built heritage and are often important for their intrinsic value and for their contribution to the character and quality of settlements and the countryside.
- 4.55 It is important to note that it is a statutory requirement to consult the Historic Buildings Council on any new additions or amendments made to the list of buildings of special architectural or historic interest.
- 4.56 **Planning Policy Statement 6 operates a general presumption in favour of the preservation of listed buildings. Applicants for listed building consent or planning permission affecting a listed building must therefore be able to justify their proposals and will need to show why they are desirable or necessary. As such the planning authority will require full information to accompany all applications to enable assessment of the likely impact of proposals on the special architectural or historic interest of the building and its setting.**

**It is suggested that Mid Ulster adopt this overarching policy stance with regard to the protection, conservation and enhancement of Listed Buildings.**

- 4.57 Planning Policy Statement 6 sets out a list of *general criteria* for the assessment of all listed building consent applications and planning applications affecting a listed building. These criteria include:
- The importance of the building, its intrinsic architectural and historic interest and rarity, in the context of NI and in local terms
  - The particular physical features of the building (which may include its design, plan, materials or location) which justify its inclusion in the list: list descriptions may draw attention to features of particular interest or value, but they are not exhaustive and other features of importance (e.g. interiors) may come to light after the building's inclusion in the list;
  - The building's setting and its contribution to the local scene, which may be very important, e.g. where it forms an element in a group, park, garden or other townscape or landscape, or where it shares particular architectural forms or details with other buildings nearby; and
  - The extent to which the proposed works would bring substantial benefits for the community, in particular by contributing to the economic regeneration of the area or the enhancement of its environment (including other listed buildings).

It is suggested that Mid Ulster use these criteria with regard to the assessment of listed building consents and planning applications in relation to Listed Buildings.

## Change of Use, Alteration and Extension or Demolition of a Listed Building and its Setting

- 4.58 SPPS regional strategic policy states development involving a change of use may be permitted, particularly where this will secure the ongoing viability and upkeep of the building. The importance of this policy is further emphasised by the fact that the number of listed buildings in NI that appear on the buildings at risk register has increased from 2001 – 2012.<sup>19</sup> It is important that such development respects the essential character and architectural or historic interest of the building and its setting, and that features of special interest remain intact and unimpaired. Proposals should be based on a clear understanding of the importance of the building/ place/ heritage asset<sup>20</sup>, and should support the best viable use that is compatible with the fabric, setting and character of the building. Applicants should justify their proposals, and show why alteration or demolition of a listed building is desirable or necessary.
- 4.59 SPPS states that proposals for total demolition of a listed building or any significant part of it must not be permitted unless there are exceptional reasons why it cannot be retained in its original or a reasonably modified form. Where consent to demolish a listed building is granted, this should normally be conditional on prior agreement for the redevelopment of the site and appropriate arrangements for recording the building prior to its demolition.

### Policy Options

- 4.60 **Option 1 - Change of Use, Alteration and Extension or Demolition of a Listed Building** - Adopt existing Policies BH7, BH8, BH10 and BH11.
- 4.61 Policy BH7 The planning authority will normally permit the change of use of a listed building where this secures its upkeep and survival and the character and architectural or historic interest of the building would be preserved or enhanced. Proposals for a change of use should incorporate details of all intended alterations to the building and its curtilage to demonstrate their effect on its appearance, character and setting.
- 4.62 The key to the survival and upkeep of listed buildings is to keep them in active use. It is likely that the survival of such buildings will only be achieved through sympathetic schemes for their appropriate re-use. In most cases this will mean a use which is economically viable and may necessitate some degree of adaptation to the building. In principle the aim should be to identify the best viable use that is compatible with the fabric, setting and character of the building and it should be noted that this may not necessarily be the most profitable use.
- 4.63 The conversion of a listed building to a new use will therefore normally only be acceptable to the planning authority, where it safeguards the future interest of the building and any alterations proposed meet the criteria set out in Policy BH8.

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<sup>19</sup> From Evidence to Opportunity, 2<sup>nd</sup> Assessment of the State of NI's Environment, DOE – NIEA, 2013

<sup>20</sup> Study of the economic value of NI Historic Environment, DOE

- 4.64 Policy BH8 The planning authority will normally only grant consent to proposals for the extension or alteration of a listed building where all of the following criteria are met:
- (a) the essential character of the building and its setting are retained and its features of special interest remain intact and unimpaired;
  - (b) the works proposed make use of traditional and/or sympathetic building materials and techniques which match or are in keeping with those found on the building; and
  - (c) the archaeological details (e.g. doors, gutters, windows) match or are in keeping with the building.
- 4.65 Many listed buildings can tolerate some degree of thoughtful alteration or extension to accommodate continuing or new uses. The planning authority will consider whether the works proposed would cause unnecessary damage to the historic structure, whether the additions are in keeping with other parts of the buildings and if any new internal or external features harmonise with their surroundings. In judging the effect of any alteration or extension the planning authority will assess the elements that make up the special interest of the building (see general criteria above).
- 4.66 All proposals for alteration should also be based on a proper understanding of the structure of the listed building, because it is vitally important that new work does not weaken the structural integrity of the building.
- 4.67 Policy BH10 There will be a presumption in favour of retaining listed buildings. The Department will not permit the demolition of a listed building unless there are exceptional reasons why the building cannot be retained in its original or in a reasonably modified form. Where, exceptionally, listed building consent is granted for demolition this will normally be conditional on prior agreement for the redevelopment of the site and appropriate arrangements for recording the building before its demolition.
- 4.68 The demolition of any Grade A or Grade B+ building should be wholly exceptional and should require the strongest justification. Indeed consent will not be given for the total or substantial demolition of any listed building without clear and convincing evidence that all reasonable efforts have been made to sustain existing uses or find viable new ones.
- 4.69 Accordingly where proposed works would result in the total demolition of a listed building or of any significant part of it, the planning authority in addition to the general criteria (see above), will address the following factors:
- the condition of the building, the cost of repairing and maintaining it in relation to its importance and to the value derived from its continued use;
  - the adequacy of efforts made to retain the building in use; and
  - the merits of alternative proposals for the site.

In the rare cases where the planning authority decides to grant consent for demolition of a listed building conditions will normally be imposed.

- 4.70 Policy BH11 The planning authority will not normally permit development which would adversely affect the setting of a listed building. Development proposals will normally only be considered appropriate where all the following criteria are met:
- a) The detailed design respects the listed building in terms of scale, height, massing and alignment;
  - b) The works proposed make use of traditional or sympathetic building materials and techniques which respect those found on the building; and
  - c) The nature of the use proposed respects the character of the setting of the building.
- 4.71 The setting of a listed building is often an essential part of the building's character. Any proposals for development which by its character or location may have an adverse affect on the setting of listed buildings will require very careful consideration by the planning authority. Development proposals some distance from the site of a listed building can sometimes have an adverse affect on its setting.
- 4.72 The design of new buildings planned to stand alongside historic buildings is particularly critical. Such buildings must be designed to respect their setting, follow fundamental architectural principles of scale, height, massing and alignment and use appropriate materials. The extent to which proposals will be required to comply with the criteria in Policy BH11 will be influenced by a variety of factors: the character and quality of the listed building; the proximity of the proposal to it; the character and quality of the setting; and the extent to which the proposed development and the listed building will be seen in juxtaposition. The submission of detailed drawings which illustrate the relationship between the proposal and the listed building will be required.
- 4.73 Key control mechanisms for these policies are that an assessment of the value of the Listed Building is carried out on an individual case by case basis and that DOE Historic Environment Division (HED) must be consulted. A listed building consent application must be submitted.
- 4.74 Based on information provided by DOE HED datasets these existing policies take account of and has regard to legislative requirements, regional planning policy and sustainability appraisal objectives at the strategic level in that it seeks to secure the protection, and conservation of Listed Buildings. The policy as it stands complies with statutory requirements. The thrust of the existing planning policy also takes account of the Council's own strategic objective to protect and enhance the built environment.
- 4.75 **Option 2 - *Alternative Policy Approach A*** In addition to the existing policies BH7, BH8, BH10 and BH11 Mid Ulster may wish to consider the introduction of an Enabling Development<sup>21</sup> approach to the re-use, restoration or refurbishment of Listed Buildings. Such enabling development will only be permitted where it can be clearly demonstrated by the applicant in the submission of a Statement of Justification which must accompany an

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<sup>21</sup> Planning Policy Statement 23, 'Enabling Development for the Conservation of Significant Places', April 2014, DOE

application for planning permission that the development proposal will assist with the protection, conservation and enhancement of the historic character of the built asset.

- 4.76 The problem with such a policy is that important historic character, features and structure may be lost due to unsympathetic and inappropriate development that would otherwise not be allowed. The historical and community value of the built heritage asset could be lost or degraded.

Further consideration may be given to a separate Enabling Development policy for the Conservation of Significant Places<sup>22</sup>.

- 4.77 **Option 3** – *Alternative Policy Approach B* Council may wish to consider simplifying and combining existing Policy BH7, Policy BH8, Policy BH10 and Policy BH11 to integrate the policy for the assessment of Listed Building and its setting planning applications involving the change of use, works of extension and/ or alteration, Demolition of Listed Buildings and development within the setting of Listed Buildings.

### **Preferred Option**

- 4.78 It is considered that Option 3 is the preferred approach at this time which ensures that where relevant protection is provided. In adopting this approach a policy could be worded along the following lines:

- **There is an overarching presumption to protect Listed Buildings and their settings. Demolition will not accord with the Plan unless there are exceptional reasons why the building cannot be retained.**
- **Development involving a change of use and / or works of extension / alteration will accord with the Plan where this will secure the ongoing viability and upkeep of the building and its setting. It is important that such a development proposal:**
  - **respects the essential character and architectural or historic interest of the building and its setting;**
  - **that features of special interest remain intact and unimpaired;**
  - **proposals should be based on a clear understanding of the importance of the building/ place/ heritage asset<sup>23</sup>, and;**
  - **should support the best viable use that is compatible with the fabric, setting and character of the building.**
- **Development which effects the setting of a Listed Building will be permissible providing:**
  - **The detailed design respects the listed building in terms of scale, height, massing and alignment;**
  - **The works proposed make use of traditional or sympathetic building materials and techniques which respect those found on the building;****and**

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<sup>22</sup> A significant place means any part of the historic environment that has heritage value including scheduled monuments, archaeological remains, historic buildings (both statutory listed or of more local significance) together with any historically related contents, industrial heritage, conservation areas, or historic park garden or demesne.

<sup>23</sup> Study of the economic value of NI Historic Environment, DOE

- **The nature of the use proposed respects the character of the setting of the building.**
- **Applicants should justify their proposals, and show why alteration or demolition of a listed building is desirable or necessary. Where consent to demolish a listed building is granted, this should normally be conditional on prior agreement for the redevelopment of the site and appropriate arrangements for recording the building prior to its demolition.**

The Control of Advertisements on Listed Buildings, Unlisted Buildings in Conservation Areas and Areas of Townscape Character

- 4.79 SPPS Regional policy for advertisement consent on a Listed Building states that consent should only be forthcoming where these are carefully designed and located to respect the architectural form and detailing of the building, and meet the requirements of strategic policy on the Control of Outdoor Advertisements.
- 4.80 SPPS regional policy for consent for the display of advertisements in or close to a Conservation Area should only be granted where they would not adversely affect the overall character, appearance or setting of the area.
- 4.81 SPPS regional policy states that consent for the display of an advertisement in an ATC should only be granted where the overall character and appearance of the area will be maintained, and the proposal meets the requirements of strategic policy on the Control of Outdoor Advertisements.

**Policy Options**

- 4.82 **Option 1 – The Control of Advertisements on Listed Buildings, Conservation Areas and Area of Townscape Character**
- 4.83 Policy BH9 The planning authority will normally only grant consent for advertisements or signs on a listed building where these are carefully designed and located to respect the architectural form and detailing of the building.
- 4.84 Many listed buildings are in commercial use and already display signs or advertisements of some sort. These in themselves may be of historic interest or of some artistic quality, and where this is the case the planning authority will not normally permit their removal or significant alteration.
- 4.85 New signs or advertisements can have a major impact on the appearance, and thus the character of listed building. Where a proposal to display signs or advertisements on a listed building is considered acceptable in principle they should be designed to complement the age and architectural style of the building. They should also be carefully located and should not obscure, overlap or cut into any architectural detailing or structural divisions of the building. The use of standard corporate signage by major companies will generally be inappropriate.
- 4.86 Policy BH13 The planning authority will not normally grant consent for the display of the advertisements in or close to a conservation area which would



adversely affect the character, appearance or setting of the area or which would be detrimental to public safety.

4.87 Policy ATC3 states that consent will only be granted for the display of an advertisement in an Area of Townscape Character where:

- a) it maintains the overall character and appearance of the area; and
- b) it does not prejudice public safety.

4.88 A key control mechanism for these policies are that an assessment of the value of the Listed Building and its setting is carried out on an individual case by case basis. Another key control mechanism with regard to listed buildings is that DOE Historic Environment Division (HED) must be consulted and, in all cases an advertisement consent application must be submitted.

4.89 Based on information provided by DOE HED datasets these existing policies take account of and has regard to legislative requirements, regional planning policy and sustainability appraisal objectives at the strategic level in that it seeks to secure the protection, and conservation of Listed Buildings and their settings. The policy as it stands complies with statutory requirements. The thrust of the existing planning policy also takes account of the Council's own strategic objective to protect and enhance the built environment.

4.90 **Option 2 – Alternative Policy Approach** Council may wish to consider simplifying and combining existing Policy BH9, Policy BH13 and ATC3 to integrate the policy for the assessment of Advertisements relating to Listed Buildings, Conservation Areas and Areas of Townscape Character (ATCs) advertisement consent applications.

4.91 It should also be noted that it is anticipated that there will be a separate strategic policy on Advertisement in the form of an Advertisement Strategy which may take account of the special architectural or historic interest of Listed Building, unlisted buildings in Conservation Areas and other important historic built heritage assets.

#### **Preferred Option**

4.92 It is considered that Option 2 is the preferred approach at this time which ensures that where relevant protection is provided. In adopting this approach a policy could be worded along the following lines:

- **Permission for the display of an advertisement on a Listed Building, within a Conservation Area and within an Area Of Townscape Character will accord with the Plan where:**
  - **It is carefully designed and located to respect the architectural form and detailing of the building;**
  - **It maintains the overall character and appearance of the area; and**
  - **It does not prejudice public safety.**

## Conservation Areas

- 4.93 Existing Conservation Areas have been designated by the Department under the Planning (NI) Order 1991<sup>24</sup>. These are areas of special architectural or historic interest, the character and appearance of which it is desirable to preserve or enhance. LDPs should identify existing Conservation Areas within the plan area and may include local policies or proposals for their protection and/or, enhancement. Proposed new Conservation Areas or alterations to existing designations may also be brought forward by the Council or the Department, where appropriate<sup>25</sup>.

### Change of Use, Alteration or Extension, New Development and Demolition in a Conservation Area

- 4.94 SPPS regional policy for Conservation Areas states that in managing development within a designated Conservation Area the guiding principle is to afford special regard to the desirability of enhancing the character or appearance where an opportunity to do so exists, or to preserve its character or appearance where an opportunity to enhance does not arise. Accordingly, there will be a presumption against the granting of planning permission for development or conservation area consent for demolition of unlisted building, where proposals would conflict with this principle. (Appendix Three)
- 4.95 In the interests of preserving or enhancing the character or appearance of a Conservation Area, development proposals should:
- be sympathetic to the characteristic built form of the area;
  - respect the characteristics of adjoining buildings in the area by way of its scale, form, materials and detailing;
  - not result in environmental problems such as noise, nuisance or disturbance;
  - protect important views within, into and out of the area;
  - protect trees and other landscape features contributing to the character or appearance of the area;
  - conform with the guidance set out in any published Conservation Area design guides; and
  - only consider the demolition of an unlisted building where the planning authority deems that the building makes no material contribution to the character or appearance of the area and subject to appropriate arrangements for the redevelopment of the site.
- 4.96 SPPS regional policy states that in managing development within a designated Conservation Area the guiding principle is to afford special regard to the desirability of enhancing its character or appearance where an opportunity to do so exists, or to preserve its character or appearance where an opportunity to enhance does not arise. Accordingly, there will be a general presumption against the grant of planning permission for development or conservation area

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<sup>24</sup> Article 50 The Planning (NI) Order 1991

<sup>25</sup> Section 104 The Planning Act 2011

consent for demolition of unlisted buildings, where proposals would conflict with this principle.

### **Policy Options**

- 4.97 **Option One – New Development in a Conservation Area** Policy BH12 The Department will normally only permit development proposals for new buildings, alterations, extensions and changes to use in, or which impact on the setting of, a conservation area where all the following criteria are met:
- a) The development preserves or enhances the character and appearance of the area;
  - b) The development is in sympathy with the characteristic built form of the area;
  - c) The scale, form, materials and detailing of the development respects the characteristics of adjoining buildings in the area;
  - d) The development does not result in environmental problems such as noise, nuisance or disturbance which would be detrimental to the particular character of the area;
  - e) Important views within, into and out of the area are protected;
  - f) Trees and other landscape features contributing to the character or appearance of the area are protected; and
  - g) The development conforms with the guidance set out in the conservation area documents.
- 4.98 The planning authority does not wish to stifle development in conservation areas. The emphasis will be on the careful control and positive management of change, to enable the area to remain alive and prosperous, but at the same time to ensure that any new development accords with the area's special architectural or historic interest. Development proposals must be of a very high standard of design, which respects or enhances the particular qualities of the area in question. Where any proposed development would harm the character, appearance or setting of the conservation area it will not be permitted.
- 4.99 The development of new buildings in a conservation area should be a stimulus to imaginative, high quality design, and seen as an opportunity to enhance the area. Proposals for the alteration or extension of properties in a conservation area will not be acceptable where they are insensitive to the existing building, or not in keeping with the character and appearance of the particular area and will prejudice the amenities of adjacent properties. In assessing applications for the change of use of a property within a conservation area the impact of the proposal on the character and appearance of the conservation area will be taken into account. Trees often make an important contribution to the appearance and character of conservation areas. In assessing development proposals affecting a conservation area planning authorities will take into account its potential impact on the existing trees.
- 4.100 Special care is also needed in the location and design of development proposals close to a conservation area. In appropriate development outside a conservation area can have a detrimental effect on the character and setting of the area.

- 4.101 The Conservation Area policy within the SPPS places a greater emphasis on new development that will 'enhance' the character of the area. Only where an opportunity to enhance does not exist should the less test of 'preserving' be considered. There is now a requirement to amend this policy to introduce this higher test.
- 4.102 It should be noted that supplementary planning guidance for each conservation area is available which sets out the unique style and character of each conservation area. The planning authority will attach great weight to the conservation area design guides when assessing proposed developments within and adjacent to designated conservation areas.
- 4.103 Policy BH14 The Department will normally only permit the demolition of an unlisted building in a conservation area where the building makes no material contribution to the character and appearance of the area. Where conservation area consent for demolition is granted this will normally be conditional on prior agreement for the redevelopment of the site and appropriate arrangements for recording the building before its demolition.
- 4.104 Control mechanisms for Policies BH12 and BH14 are that each development proposal is assessed on its own merits and against a set of assessment criteria. Further advice and guidance can be sought from DOE HED, if required.
- 4.105 Based on information provided by NIEA datasets this policy takes account of and has regard to legislative requirements, regional planning policy and sustainability appraisal themes at the strategic level. The policy as it stands complies with statutory requirements.
- 4.106 **Option Two - Alternative Policy Approach** In addition to the existing policy BH12 Mid Ulster may wish to consider the introduction of the need for all development proposals within the designated conservation area to enhance the character of the area. An amendment to the existing Policy BH12 to include and strengthen the requirement for development to enhance the character and appearance of the conservation area will align Council policy more closely with the SPPS strategic regional policy. Council may wish to consider simplifying and combining existing Policies BH12 and Policy Bh14 to integrate the policy for Conservation Areas,

### **Preferred Option**

- 4.107 It is considered that Option 2 is the preferred approach at this time which ensures that where relevant protection is provided. In adopting this approach a policy could be worded along the following lines:
- **There will be a presumption in favour of retaining unlisted buildings within a designated conservation area which make a material contribution to the character or appearance of the conservation area.**
  - **Demolition of an unlisted building can accord with the Plan where it makes no material contribution to the character or appearance of the conservation area or where there are exceptional reasons why the unlisted building cannot be retained.**
  - **When assessing development proposals for change of use, alterations or extensions and/or new development in the Conservation Area the**

**guiding principle will be to afford special regard to the desirability of enhancing the character or appearance where an opportunity to do so exists, or to preserve its character or appearance where an opportunity to enhance does not arise. There will be a presumption against the grant of planning permission for development or conservation area consent for demolition of unlisted buildings, where proposals would conflict with this principle.**

- **Development proposals for change of use, alteration or extension and/or new development will be required to demonstrate that it either preserves or enhances the character or appearance of a conservation area. Design and Access Statements will be required to accompany such proposals.**
- **Design and Access Statements will be required to demonstrate how consideration of the character or appearance of the conservation area has been taken into account and where appropriate the architectural detail of the conservation area in order for the proposal to preserve or enhance the existing character or appearance of the conservation area.**

4.108 It is important to note that it is a statutory requirement to consult both the Department, and the Historic Buildings Council if any new Conservation Areas are to be created within Mid Ulster. It is also worth noting that as the five existing Conservation Areas were designated by the Department only the Department has the power to amend, vary or cancel them.

#### Non Listed Vernacular Buildings

4.109 The vernacular buildings of Northern Ireland have developed as a response to local economic and social circumstances, using simple styles and largely local materials. They have a natural place in our towns, villages and smaller settlements and help give the countryside its personality. There is a general presumption in favour of the preservation of buildings listed as being of special architectural or historic interest there is growing concern about the continuing loss of those traditional buildings with historical associations and local character, which are not listed, particularly in rural areas. Buildings of character which display local traditions of architecture and design are an important part of our heritage and regional identity. It is therefore sensible to sympathetically rehabilitate and improve such vernacular buildings, rather than replace them or allow them to fall derelict.

#### The Re-use of Non-listed Vernacular Buildings and Industrial Heritage

- 4.110 The SPPS refers to non-designated heritage assets such as an unlisted vernacular building<sup>26</sup>. The effects of development on such buildings (if locally identified and protected) should be taken into account in the determination of the application. A balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset<sup>27</sup>.
- 4.111 SPPS regional policy on open space<sup>28</sup> refers to the need to take into account the importance of protecting linear open space such as pedestrian and cycle routes, community greenways, former railway lines and river and canal corridors many of which are valuable in linking larger areas of open space (connectivity) and providing important wildlife corridors/ecological networks (biodiversity).
- 4.112 The SEA scoping report for the SPPS refers to the Industrial Heritage Record which includes more than 16,000 listed features including mills, mines, canals and railways.
- 4.113 DTS has a policy specific to Historic Waterways (Plan Policy CON6) in the form of the Coalisland canal. This policy currently provides protection to the historic waterway as development proposals that would prejudice the future restoration and re-use of the Coalisland Canal will not be permitted.
- 4.114 The protection, conservation and enhancement of industrial assets (as identified on the DOE HED Industrial Heritage Record) is a policy option, in that Council may wish to consider formally protecting such industrial features through the LDP process.

### **Policy Options**

- 4.115 **Option 1 –The Re-use of Non-listed Vernacular Buildings and Industrial Heritage** Policy BH15 The planning authority will normally permit the sympathetic conversion of non-listed vernacular buildings to other appropriate uses where this would secure their upkeep and retention. In the countryside conversion to residential use will normally only be considered appropriate where the building to be converted is an important element in the landscape and of local architectural merit or historic interest. All proposals for conversion will normally be required to meet all of the following criteria:
- a) The building is structurally sound and capable of conversion;
  - b) The scheme of conversion will not have an adverse effect on the character or appearance of the locality and safeguards the form, character and architectural features, design and setting of the existing building. This will involve retention of existing door and window openings and minimising the

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<sup>26</sup> Vernacular buildings reflect the local 'folk tradition' and are typical of a common type of building in a particular locality, generally pre 1925. For more detail refer to 'A Sense of Loss – The Survival of Rural Traditional Buildings in Northern Ireland', published by DOE, March 1998

<sup>27</sup> The concept of significance in relation to heritage refers to the value of a heritage asset because of its heritage interest which may be archaeological, architectural, artistic or historic. The setting of a heritage asset can also contribute to its significance

<sup>28</sup> Open Space, Sport and Outdoor Recreation, page 86, SPPS

number of new openings. Details such as door and window design, external surfaces, rainwater goods and means of enclosure should be traditional or sympathetic design and materials;

- c) The new use would not cause unacceptable adverse effects on the amenities of nearby residents or other land uses;
- d) Normally no new extensions are involved; and
- e) Access and other necessary services are provided without adverse impact on the character of the locality.

4.116 Changing patterns of life mean that many traditional local vernacular buildings are no longer needed for their original use. While many of these vernacular buildings are now vacant and are at risk from dereliction, they represent a valuable historic resource and their appropriate re-use would contribute to sustainable development and may encourage the social and economic regeneration of particular areas.

4.117 The planning authority wishes to encourage the re-use of such vernacular buildings by sympathetic renovation or conversion for a range of appropriate uses. This may include proposals for tourism or recreation use, small-scale employment uses or new rural enterprises. All development proposals for the conversion of a vernacular building should involve a minimum of work and should maintain or enhance the existing character of the building and its setting. Approval will not normally be given to a scheme involving substantial demolition or extensions which significantly alter the appearance or character of the building.

4.118 Control mechanisms for BH15 are that each development proposal is assessed on its own merits and assessments are based on a set of identified criteria. Further advice and guidance can be sought from DOE HED, if required.

4.119 The problem with this existing policy is that it is very ridged and restrictive in terms of the adaptability of smaller vernacular buildings that may not easily be converted to accommodate modern living standards. There is a lack of flexibility for decision makers. It is considered that if the vernacular building meets all the tests of the set criteria then consideration should be given to listing the structure.

4.120 Based on information provided by DOE HED datasets this existing policy takes account of and has regard to legislative requirements, regional planning policy and sustainability appraisal objectives at the strategic level in that it seeks to secure the protection, and conservation of the setting of Listed Buildings. The policy as it stands complies with statutory requirements. The thrust of the existing planning policy also takes account of the Council's own strategic objective to protect and enhance the built environment.

4.121 **Option 2 – Alternative Policy Approach** Council may wish to consider introducing more flexibility into the existing Policy BH15 by retaining the presumption for the preservation and retention of non-listed vernacular buildings and, where appropriate, industrial heritage, allowing for conversion where is it practical and would secure its upkeep and retention.

4.122 The benefit of this change would allow for more development options for the vernacular buildings. However, the problem with this policy approach would be a loss of these valuable historic buildings through the inappropriate re-use and removal of key historic features of their vernacular construction, i.e. the elements which make the buildings historically important and architecturally special.

### **Preferred Option**

4.123 It is considered that Option 2 is the preferred approach at this time which ensures that where relevant protection is provided. In adopting this approach a policy could be worded along the following lines:

- **There will be a presumption in favour of the preservation and retention of non-listed vernacular buildings and industrial heritage.**
- **When assessing development proposals consideration will be given to whether the conversion, retention and re-use of such buildings represents a practical solution.**

4.124 It should be noted that Policy CTY 3 Replacement Dwellings of Planning Policy Statement 21 contains a section focused on the reuse of non-listed vernacular dwellings (residential use) in the countryside. This policy mirrors sections of Policy BH15 regarding residential development in the countryside. **Council may wish to consider preparing a bespoke policy for re-use of non-listed vernacular dwellings in the countryside which could combine existing Policies BH15 and CTY3.**

### **Planning Policy Statement 6 Addendum**

4.125 PPS 6 (Addendum) – Areas of Townscape Character provides additional planning policy related specifically to Areas of Townscape Character, for demolition of buildings, new development and the control of advertisements.

These policies are summarised below, for further details please refer to Appendix Four.

### **Key Questions**

**5. In relation to the historic built environment, do the policies of PPS 6 Addendum accord with the objectives of the;**

- **Regional Strategic Policy of the SPPS;**
- **the Local Development Plan objectives, and;**
- **the Sustainability Appraisal**

**6. Whether or not the Council needs to bring forward alternative tailored strategic policy for the historic built environment.**



### Areas of Townscape Character

4.126 Many areas within settlements do not have the distinctive character to warrant conservation area designation. However, because of their own unique identity, it may be appropriate to identify and define these as areas of townscape or village character. Local policies or proposals and guidance for such areas should also be included in the plan or where appropriate in supplementary planning guidance.

### Demolition Control and New Development in an Area of Townscape Character

4.127 SPPS regional policy for Areas of Townscape Character states that the demolition of an unlisted building in an ATC should only be permitted where the building makes no material contribution to the distinctive character of the area and subject to appropriate arrangements for the redevelopment of the site.

4.128 SPPS regional policy for Areas of Townscape Character states that in managing development within ATCs designated through the LDPs process, the council should only permit new development where this will maintain or enhance the overall character of the area and respect its built form.

### **Policy Options**

4.129 **Option 1** – Demolition Control and New Development in an Area of Townscape Character ATC 1 There will be a presumption in favour of retaining any building which makes a positive contribution to the character of an Area of Townscape Character. The Department will normally only permit the demolition of an unlisted building in an Area of Townscape Character where the building makes no material contribution to the distinctive character of the area. Where permission for demolition is granted this will normally be conditional on prior agreement for the redevelopment of the site.

4.130 The demolition of a building or buildings in an ATC can significantly erode the character, appearance and integrity of such areas. Demolition can be particularly damaging in cases where it is proposed in isolation, that is, where there are no proposals for the redevelopment of the site. In order to prevent demolition damaging the distinctive character and appearance of an ATC, the planning authority will operate a presumption in favour of retaining any building which makes a positive contribution to the character of the area.

Where the demolition of an unlisted building in an ATC is proposed the key considerations that will be taken into account are:

- The contribution of the building to the ATC and the effect of its demolition on the distinctive character of the area; and
- Whether the quality of proposals for the redevelopment of the site will maintain or enhance the distinctive character of the area.

4.131 Where the planning authority decides to permit demolition conditions will normally be imposed.

4.132 Policy ATC2 The planning authority will only permit development proposals in an Area of Townscape Character where the development maintains or enhances its overall character and respects the built form of the area. The

planning authority will also require that any trees, archaeological or other landscape features which contribute to the distinctive character of the area are protected and integrated in a suitable manner into the design and layout of the development.

- 4.133 It is important to protect the distinctive character and intrinsic qualities of Areas of Townscape Character (ATCs). Sensitive planning controls are therefore necessary to ensure that both the individual and cumulative effects of development do not detract from the character, appearance and quality of these areas. New development in an ATC should seek to reinforce local identity and promote quality and sustainability in order to respect and, where possible, enhance the distinctive character and appearance of the area. In assessing the acceptability of proposals, the planning authority will have regard to the same broad criteria outlined for Conservation Areas.
- 4.134 Control mechanisms for these policies are that each development proposal is assessed on its own merits and assessments are based on a set of identified criteria and any consent will be subject to conditions.
- 4.135 Based on information provided by DOE Area Plans this policy takes account of and has regard to legislative requirements, Regional planning policy and sustainability appraisal themes at the strategic level. The policy as it stands is similarly worded to the SPPS policy however the new policy goes a step further in that where a proposal involves the demolition of unlisted building within an ATC it states that appropriate arrangements for redevelopment of the site **must** be included in the proposals. Previously the test was **normally** have appropriate arrangements of the site in place. Any new policy should take account of this new stricter test.
- 4.136 **Option 2 – Alternative Policy Approach** In addition to the existing policy ATC1 Mid Ulster may wish to consider the introduction of the need for all demolition proposals within an ATCs must include appropriate arrangements for the redevelopment of the site **must** be included in the proposals. An amendment to the existing Policy ATC1 will align Council policy more closely with the SPPS strategic regional policy. Furthermore this policy approach should allow for the combination of Policy ATC1 and ATC2.

#### **Preferred Option**

- 4.137 It is considered that Option 2 is the preferred approach at this time which ensures that where relevant protection is provided. In adopting this approach a policy could be worded along the following lines:
- **There will be a presumption in favour of retaining an unlisted building within an ATC which makes a material contribution to the overall character or appearance of the ATC.**
  - **Permission may be granted for demolition on an unlisted building where it does not make a material contribution to the distinctive character or appearance of the ATC.**
  - **Development proposals for the change of use, alteration or extension or new development will accord with the plan where they maintain or enhance the overall character or appearance of the ATC.**

4.138 It should be noted that Areas of Townscape Character are identified in the three existing area plans which cover Mid Ulster District. Within each area plan is guidance specific to the identified ATC. These designated ATCs and their guidance shall be retained until such time as they are replaced by the Local Policies Plan.

### **Planning Policy Statement 23 'Enabling Development'**

4.139 Planning Policy Statement 23 'Enabling Development for the Conservation of Significant Places'<sup>29</sup> provides further planning policy related to the historic environment. The purpose of enabling development is to provide the flexibility to accommodate unforeseen imaginative proposals for the maintenance, major repair or conversion to the viable use of a significant place where this is greater than its value to its owner or market value. This policy will only be used as a last resort where the long term public benefit of securing a significant place decisively outweighs the disadvantages of departing from established planning policy.

This policy is summarised below, for further details please refer to Appendix Five.

#### **Key Questions**

**7. In relation to the historic built environment, do the policies of PPS 6 Addendum accord with the objectives of the;**

- **Regional Strategic Policy of the SPPS;**
- **the Local Development Plan objectives, and;**
- **the Sustainability Appraisal**

**8. Whether or not the Council needs to bring forward alternative tailored strategic policy for the historic built environment.**

#### **Enabling Development**

4.140 SPPS regional policy states that enabling development is a development proposal that is contrary to established planning policy and in its own right would not be permitted. Such a proposal may however be allowed where it will secure the long term future of a significant place and will not materially harm its heritage value or setting. Enabling development typically seeks to subsidise the cost of maintenance, major repair, conversion to the optimum viable use of a significant place where this is greater than its value to its owner or market value.

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<sup>29</sup> A Significant Place means any part of the historic environment that has heritage value including scheduled monuments, archaeological remains, historic buildings (both statutorily listed or of more local significance) together with any historically related contents, industrial heritage, conservation areas or a historic park, garden or demesnes.

## **Policy Options**

- 4.141 **Option 1 – Enabling development for the Conservation of Significant Places**  
Policy ED1 Any proposal involving the concept of enabling development must relate to the re-use, restoration or refurbishment of a significant place. The proposal must be accompanied by a Statement of Justification. Planning permission will only be granted when all the set criteria is met.
- (a) the significant place to be subsidised by the proposed enabling development will bring significant long-term benefits according to its scale and location;
  - (b) the conservation of the significant would otherwise be either operationally or financially unviable;
  - (c) the impact of the enabling development is precisely defined at the outset;
  - (d) the scale of the proposed enabling development does not exceed what is necessary to support the conservation of the significant place;
  - (e) sufficient subsidy is not available from any other source;
  - (f) the public benefit decisively outweighs the benefits of departing from other planning policies;
  - (g) it will not materially harm the heritage values of the significant place or its setting;
  - (h) it avoids detrimental fragmentation of the management of the significant place;
  - (i) it will secure the long term future of the significant place and, where applicable, its continued use for a sympathetic purpose; and
  - (j) it is necessary to resolve problems arising from the inherent needs of the heritage asset, rather than circumstances of the present owner, or the purchase price paid.
- 4.142 This policy will only be used as a last resort where the long-term public benefit of securing a significant place decisively outweighs the disadvantages of departing from normal policy presumptions. It allows for assessment of these proposals as a preliminary requirement and is not to be implemented if the planning authority is not convinced that the public benefit will be gained.
- 4.143 Developers are encouraged to enter into pre-application discussions with the planning authority: to assess the impact of the enabling element of the proposed development; to establish the level of detail required; to discuss the need to submit a 'full' as opposed to 'outline' planning application; and to avoid unrealistic expectations.
- 4.144 Applications incorporating enabling development should be accompanied by a Statement of Justification. This statement should include sufficient, detailed financial information as is necessary to allow the planning authority, and/or its consultees to make an informed decision upon the application. In particular, the information provided on the enabling development component should be sufficiently detailed to allow the planning authority to validate the need for, and assess the scale of the enabling development; and consider the impact on private concerns where this coincides with the public interest.
- 4.145 Enabling development must always be justified by the inherent lack of viability of the heritage asset, not an owner's inability to fund a commercially viable scheme.

There are a number of stringent control mechanisms which places the onus on the applicant to provide clear, robust financial evidence and enter into pre-application discussion at a preliminary stage. It is vital that this policy is only to be used as a last resort to securing long-term public benefit of a significant place.

- 4.146 The problem with this policy is that it allows for certain proposed developments to contravene existing planning policy which may result in the loss of or detrimental impact on regionally important significant places within the historic built environment.
- 4.147 **Option 2 – Alternative Policy Approach A** In addition to Policy ED1 the existing policy should be strengthened by introducing a mandatory requirement for a planning agreement under Section 75 (a legally binding contract).
- 4.148 **Option 3 – Alternative Policy Approach B** Council may wish to consider not having an enabling development policy as it is not a statutory requirement and is a clear departure from all other planning policies which are in place to protect, conserve and enhance the historic built environment.

### **Preferred Option**

- 4.149 It is considered that Option 1 is the preferred approach at this time which ensures that where relevant protection is provided. In adopting this approach a policy could be worded along the following lines:
- **Any proposal involving the concept of enabling development must relate to the re-use, restoration or refurbishment of a significant place. The proposal must be accompanied by a Statement of Justification. Planning permission will only be granted when all the set criteria are met.**

### **Discretionary Powers – Historic Built Environment**

- 4.150 The adopted SPPS sets out other policy options for Local Authorities related to the historic built environment.

#### **Non-Designated Heritage Assets (NDHAs)**

- 4.151 Non-designated heritage assets or more commonly known as ‘local listing’. This is not a statutory requirement but is remains a viable option for Local Authorities to consider when preparing the LDP or supplementary planning guidance.
- 4.152 SPPS states the effect of an application on the significance of a non-designated heritage asset such as an unlisted vernacular building<sup>30</sup>, or historic building of

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<sup>30</sup> Vernacular buildings reflect the local ‘folk tradition’ and are typical of a common type of building in a particular locality, generally pre1925. For more details refer to ‘A Sense of Loss – Survival of Rural Traditional Buildings in Northern Ireland’, published by DOE, March 1998.

local importance<sup>31</sup> should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm of loss and the significance of the heritage asset. Councils may wish to bring forward bespoke local policies for such buildings.

- 4.153 The identification of non-designated heritage assets can be used to recognise local distinctiveness and character to ensure these values are taken into account when changes affecting the historic environment are proposed. These lists can play an important role in celebrating heritage that is valued by the community. The preparation of a 'local list' provides an opportunity for Councils and communities to work in partnership<sup>32</sup>.

*'Local heritage listing is a means for a community and a local authority to jointly identify heritage assets that are valued as distinctive elements of the local historic environment. It provides clarity on the location of assets and what it is about them that is significant, guaranteeing that strategic local planning properly takes account of the desirability of their conservation.'*

- 4.154 Creation of a 'local list' of heritage assets is an effective way of providing additional protection for buildings and structures that are valued by the local community. Importantly, any such list should be supported by a specific development plan policy that commits the Council to resist demolition or damaging alteration unless it can be demonstrated that retention is not feasible.
- 4.155 The preparation of a list of non-designated heritage assets is an option however the method regarding the identification of such assets would need further investigation and consideration as clear selection criteria is required which justifies the identification such heritage assets i.e. a robust evidence base would be necessary.
- 4.156 **The Planning Committee is requested to note the Council's powers with regard to the identification of non-designated heritage assets and to consider the option of seeking proposals for buildings/ historic structures that may be considered for local listing via the Preferred Option Paper (POP).**

#### Local Landscape Policy Areas (LLPAs)

- 4.157 SPPS states that these designations consist of those features and areas within and adjoining settlements considered to be of greatest amenity value, landscape quality or local significance and therefore are worthy of protection from undesirable or damaging development. They may include:

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<sup>31</sup> A historic building of local importance, is a building, structure or feature, whilst not statutory listed, has been identified by the council as an important part of their heritage, due to its local architectural or historic significance.'

<sup>32</sup> Good Practice Guide for Local Heritage Listing, May 2012, Historic England

- Archaeological sites and monuments and their surroundings;
- Listed and other locally important buildings and their surroundings;
- River banks and shore lines and associated public access;
- Attractive vistas, localised hills and other areas of local amenity importance; and
- Areas of local nature conservation interest, including areas of woodland and important tree groups.

4.158 LDPs should consider, where appropriate, designating LLPAs and bring forward local policies and guidance to maintain the intrinsic landscape, environmental value and character of such areas. Options that may be considered are removing permitted development rights, via an Article 4 Direction, on locally important buildings and their settings that are located within a designated LLPA and/or serving a Tree Protection Order on existing trees that are an important visual amenity asset.

4.159 It should be noted that there are a number of designated LLPAs within each of the three existing area plans which cover Mid Ulster District. Within each area plan is guidance specific to the identified LLPA. These designated LLPAs and their guidance shall be retained until such time as they are replaced by the Local Policies Plan and that a strategic operational policy be introduced as follows:

- **Development within LLPA's will accord with the Plan proving it does not harm the intrinsic character or assets within it and adheres to local policy guidance.**

## 5.0 Recommendation

5.1 It is recommended that the policy options contained within this Paper together with the preferred options are subjected to Sustainability Appraisal/Strategic Environmental Assessment, before any final decisions are made on which options will go forward for public consultation in the Preferred Options Paper.

## **APPENDIX ONE**

Part 4 of the Planning Act (Northern Ireland) 2011

### **Listed Buildings**

#### Section 80 Lists of buildings of special architectural or historic interest

Sets out the Department's duty with respect to compiling a list of buildings of 'special architectural or historic interest'. The Department must consult with The Historic Buildings Council (HBC) if compiling or amending the list. The list must be available for public inspection. Section 80 (7) provides the definition of a 'listed building' it states that;

'in this Act 'listed building' means a building which is for the time being included in a list compiled under this section; and, for the purposes of the provisions of this Act relating to listed buildings, the following shall be treated as part of the building-

- (a) Any object or structure within the curtilage of the building and fixed to the building;
- (b) Any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1<sup>st</sup> October 1973.

#### Section 81 Temporary listing: building preservation notices

Sets out Council powers (transferred from the Department) with respect to 'building preservation notices' (BPNs). These notices come into force only when formally served on owners and occupiers of a building within the council district where it appears the building is worthy of being listed but is not yet included in the list. Section 81 (2) sets out the form the notice must take and the temporary nature of the notice (valid for 6 months only) by which time the Department must include the building in the list or notify the council it does not intend to list the building. The immediate effect of a BPN is to protect the building as if it were listed. Building Preservation Notices A good practice guide for councils issued by NIEA, May 2015 provides further guidance.

#### Section 82 Temporary listing in urgent cases

Sets out Council powers (transferred from the Department) with respect to serving of 'BPN in the case of urgency, formal service on owner and occupier not required, a notice affixed 'conspicuously' to the building can be regarded as being served.

#### Section 83 Lapse of building preservation notices

Sets out Council powers (transferred from the Department) with respect to BPNs which have ceased to be in force (expired within 6 months or refused listing by the Department). These include the ability to prosecute and punish any person under section 85 (demolition of listed building) or section 147 (where enforcement notice not complied with) even though the original building preservation notice has expired.

#### Section 84 Issue of certificate that building is not intended to be listed



Sets out Department's power with respect to issuing to an applicant a certificate stating it does not intend to list a building. If such a certificate is issued (after statutory consultation with HBC and the Council) then the building cannot be listed by the Department or a BPN served by the Council for the next 5 years.

#### Section 85 Control of works for demolition, alteration or extension of listed buildings

Persons undertaking works as specified above, without consent from the Department or the Council shall be guilty of an offence (on summary conviction imprisonment not exceeding 6 months, £100,000 fine or both, up to 2 years on indictment).

#### Section 86 Applications for listed building consent

Applications for consent made to Council for listed building consent, form of application set out in subordinate legislation or by any direction by council under the regulations. A consent application must include a statement about design principles and concept applied to works and a statement about how issues relating to access have been dealt with. The Department or the Council may grant approval subject to conditions.

#### Section 87 Notification of applicants for listed building consent to certain persons

This states that listed building consent is subject to the statutory notification process regarding the need for a declaration of land ownership.

#### Section 88 Call in of certain applications for listed building consent to Department

The Department has powers to call in a listed building application from the Councils. Where it is certified that the listed building application relates to a national security issue the Department must call in the application. Where this occurs the Department must cause under Section 235 (2) or (5) a Public Local Inquiry to be Held. This can be held by Planning Appeals Commission or a person appointed by the Department. The Department must take into account of public inquiry report. The Departments decision shall be final in cases that where this Section applies.

#### Section 89 Duty to notify Department of applications for listed building consent

The Council must notify the Department if it intends to grant listed building consent and must supply (to the Department) details of the works for which consent is required. The Department has up to 28 days to call in (S.88) the application or give notice that additional time is required to consider the application. Councils must not grant listed building consent until the 28 day period has expired or until the Department notifies Council it does not intend to call in the application.

#### Section 90 Directions concerning notification of applications, etc.

This Section outlines how the Department may issue a direction specifying situations where the Department does not need to be notified when the Council intends to grant consent (S. 89).

#### Section 91 Decision on application for listed building consent

Listed building consent decisions may be refused or granted either unconditionally or subject to conditions. Council or the Department must have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses. This is a statutory requirement. Listed building consent may be granted subject to conditions and where the listed building is to be demolished conditions may be added that no demolition take place until contracts are signed to redevelop the site and permission granted for the redevelopment.

#### Section 92 Power to decline to determine subsequent application for listed building consent

Sets out Council powers to decline to determine an application for listed building consent in certain circumstances. These include where a similar application has been made in the last 2 years, where an appeal has been dismissed or withdrawn.

#### Section 93 Power to decline to determine overlapping application for listed building consent

Sets out Council powers to decline to determine an application for listed building consent which is made on the same day as a similar application or at a time when any of the conditions set out in subsection (2) to (4) applies.

#### Section 94 Duration of listed building consent

Set out time limit conditions, works must be within 5 years of consent being granted or other time period as may be specified by the Department or Council. If no time limit conditioned it will be 'deemed' to be granted subject to 5 year time limit for works to begin.

#### Section 95 Consent to execute works without compliance with conditions previously attached

An applicant can apply to original authority only (Department or Council) who granted consent to carry out works without compliance with conditions previously attached.

#### Section 96 Appeal against failure to take decision

If refused listed building consent by Council an applicant can appeal to the PAC (within a 4 month time period only).

#### Section 97 Appeal against failure to take decision

If the Council fails to determine a listed building consent or, a condition imposed on a grant of listed building consent, within a specified time frame then an applicant may lodge a non-determination appeal.

#### Section 98 Revocation or modification of listed building consent by Council

Sets out Council powers to, where expedient, revoke or modify any listed building consent granted within its district, having regard to the local development plan and any other material considerations.

### Section 99 Procedure for section 98 orders: opposed cases

Where an order of modification or revocation is made by the Council it shall not take effect until confirmed by the Department. Any other must be formally served on the owner, occupiers or other affected parties. The Order can be appealed to PAC within 28 days of being served.

### Section 100 Procedure for section 98 orders: unopposed cases

Where an order of revocation or modification is unopposed the owner, occupiers and affected parties have confirmed in writing that they do not object to the order then (instead of submitting the order to the Department for confirmation) the Council must advertise the order in the prescribed manner. If no person affected by the order gives notice then the order shall take effect at the end of the prescribed period.

### Section 101 Revocation or modification of listed building consent by Department

The Department, where expedient may modify or revoke any listed building consent granted. The Department must have regard to any material consideration and must consult with the appropriate Council before making the order. The Order must be served on the owner, occupier and those affected. The right of appeal applies to the Order.

### Section 102 Applications to determine whether listed building consent is required

Sets out Council powers (transferred from Department) to determine if listed building consent is required for works.

### Section 103 Acts causing or likely to result in damage to listed buildings

A person(s) shall be guilty of an offence if they do or permit the doing of an act which causes or is likely to result in damage to the building.

## **Areas of Special Architectural or Historic Interest**

### Section 104 Conservation Areas

Powers are shared between Council and the Department. Both can designate conservation areas. A conservation area is an area of special architectural or historic interest within its district the character or appearance of which it is desirable to preserve or enhance. Before making a determination the Department must consult with the appropriate council. A designation may only be varied or cancelled by the authority which made the designation. The planning authority must consult with Historic Building Council (HBC) and any other person(s) as may be prescribed. If the planning authority does not consult with HBC then the designation is only valid for 6 months. Council must give notice to the Department if any new designation, variation or cancelling of an existing designation is proposed. The Department must give notice to the appropriate Council if any new designation, variation or cancelling of an existing designation is proposed. Notice of designation must be published in one local newspaper within the district by Council or the Department.

S. 104, (11) Where a conservation area is designated special regard must be had to the desirability of:

(a) preserving the character or appearance of that area in cases where an opportunity for enhancing its character or appearance does not arise;

(b) enhancing the character or appearance of that area in cases where an opportunity to do so does arise.

#### Section 105 Control of Demolition in Conservation Areas

Buildings within conservation areas (which are unlisted) are not to be demolished without conservation area consent from the appropriate authority (Department or Council). If the Council make an application the Department can approve it. All other applications must be approved by Council.

S. 105 (8) refers to any structural alteration of that building where the alteration consists of demolishing part of the building.

#### Section 106 Grants in relation to Conservation Areas

Power to make grants or loans within conservation areas still lies with the Department only. Grants or loans may be subject to conditions.

### **Land and works of councils**

#### Section 107 Application of Chapter 1, etc. to land and works of Councils

Deals with applications submitted by Councils in relation to the execution of works for the demolition, alteration or extension of listed buildings. Applications are to be dealt with by the Department.

Part 8 of the Planning Act (NI) 2011

### **Further Provisions as to Historic Buildings**

#### Section 198 Historic Buildings Council

The HBC will continue in operation as before. It's function will be to review and report to the Department on the state of listed buildings, advise department on listed building (planning applications) and any other functions as set out in statutory provisions (e.g. consulted on new conservation area designations. Schedule 5 of Act sets out the mechanics of how HBC will operate e.g. Chair appointed by Minister, members to hold office for 3 years maximum, allowances, expenses etc.

#### Section 199 Grants and loans for preservation or acquisition of listed buildings

The power to provide grant or loans for the repair or maintenance of listed buildings still resides with the Department

#### Section 200 Acquisition of listed buildings by agreement

Department may acquire by agreement, by purchase or lease or may accept as a gift any listed building and lands. Department may also purchase by agreement or accept as a gift any object kept in listed building. Department can make

management arrangements as it sees fit for any property acquired. Property acquired may be passed to other bodies e.g. National Trust, Councils as prescribed

#### Section 201 Acceptance by Department of endowments in respect of listed buildings

Department may accept the gift of an endowment towards the upkeep of a listed building

#### Section 202 Compulsory acquisition of listed buildings

Allows the Department, where it is considered to be expedient, to compulsorily acquire a listed building and lands where reasonable steps are not being taken to properly preserve it. Department under PNIO 1991 Article 87 to 93 may make a vesting order to acquire the lands. Compulsory purchase proceedings shall not commence until at least two months previously it has served a "repair notice" on the owner of the listed building. Crown lands exempted from compulsory acquisition except in certain circumstances.

## APPENDIX TWO

### Single Planning Policy Statement (September 2015)

#### Archaeology and Built Heritage

6.1 Archaeological and built heritage assets such as tombs and ring forts, historic and vernacular buildings, planned parklands, buildings and features associated with industrial heritage, are all important sources of information about our past, and are often significant landmarks in the present townscape and countryside. This archaeological and built heritage constitutes an irreplaceable record which contributes to our understanding of both the present and the past and is an important economic resource. Their presence usually adds to the quality of our lives and promotes a sense of local distinctiveness which is an important aspect of the character and appearance of cities, towns, villages and the countryside.

6.2 The Regional Development Strategy 2035 (RDS) sets out regional guidance to “Conserve, protect and where possible, enhance our built heritage and our natural environment.”<sup>33</sup> It recognises that Northern Ireland has a rich and diverse archaeological and built heritage which contributes to our sense of place and history. It also regards built heritage as a key marketing, tourism and recreational asset that, if managed in a sustainable way, can make a valuable contribution to the environment, economy and society.

6.3 The planning system has a key role in the stewardship of our archaeological and built heritage. The aim of the SPPS in relation to Archaeology and Built Heritage is to manage change in positive ways so as to safeguard that which society regards as significant whilst facilitating development that will contribute to the ongoing preservation, conservation and enhancement of these assets.

#### Regional Strategic Objectives

6.4 The regional strategic objectives for archaeology and built heritage are to:

- secure the protection, conservation and, where possible, the enhancement of our built and archaeological heritage;
- promote sustainable development and environmental stewardship with regard to our built and archaeological heritage; and
- deliver economic and community benefit through conservation that facilitates productive use of built heritage assets and opportunities for investment, whilst safeguarding their historic or architectural integrity.

#### Regional Strategic Policy

6.5 The following strategic policy must be taken into account in the preparation of Local Development Plan (LDPs) and in the determination of planning applications.

#### World Heritage Sites

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<sup>33</sup> RDS 2035 – RG 11

6.6 Development that would adversely affect the Outstanding Universal Value of a World Heritage Site (WHS) or the integrity of its setting must not be permitted unless there are overriding exceptional circumstances.

6.7 Inclusion of a WHS on a list published by UNWESCO highlights the outstanding international importance of the site as a material consideration in the determination of planning and listed building consent applications, and appeals. Planning authorities must carefully consider applications affecting the Outstanding Universal Value of such sites, particularly taking into account the safeguarding of critical views to and from the site, the access and public approaches to the site and the understanding and enjoyment of the site by visitors.

## **Archaeology**

6.8 Archaeological remains of regional importance include monuments in State Care, schedule monuments and Areas of Significant Archaeological Interest (ASAI's). Such sites (or constituent parts of them) benefit from statutory protection<sup>34</sup>.

Development which would adversely affect such sites or the integrity of their settings must only be permitted in exceptional circumstances. The scheduling programme is an ongoing process and there are archaeological remains of regional importance yet to be scheduled. In order to make sure that the most up to date information is taken into account when determining applications, this policy approach should also apply to such sites which, whilst not scheduled presently, would otherwise merit such statutory protection.

6.9 Development proposals which would adversely affect archaeological remains of local importance or their settings should only be permitted where the planning authority considers that the need for the proposed development or other material considerations outweigh the value of the remains and/or their settings.

6.10 Planning authorities should seek all necessary information from applicants in making well informed planning judgements, particularly where the impact of a development proposal on archaeological remains is unclear, or the relative significance of such remains is uncertain. Should an applicant fail to provide a suitable assessment or evaluation on request, the planning authority should adopt a precautionary approach and refuse planning permission.

6.11 Where a planning authority is minded to grant planning permission for development which will affect sites known or likely to contain archaeological remains, it should ensure that appropriate measures are taken for the identification and mitigation of the archaeological impacts of the development. Where appropriate, this may involve the preservation of remains in situ, or a licensed excavation, recording examination and archiving of the archaeology by way of planning conditions<sup>35</sup>.

## **Listed Buildings**

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<sup>34</sup> Scheduled sites are protected under the Historic Monuments and Archaeological Objects (NI) Order 1995

<sup>35</sup> Archaeological excavations may only be carried out under the provision of a licence granted by the Department under the provisions of the Historic Monuments and Archaeological Objects (NI) Order 1995.

6.12 Listed Buildings<sup>36</sup> of special architectural or historic interest are key elements of our built heritage and are often important for their intrinsic value and for their contribution to the character and quality of settlements and the countryside. It is important therefore that development proposals impacting upon such buildings and their settings are assessed, paying due regard to these considerations, as well as the rarity of the type of structure and any features of special architectural or historic interest which it possesses.

6.13 Development involving a change of use and / or works of extension / alteration may be permitted, particularly where this will secure the ongoing viability and upkeep of the building. It is important that such development respects the essential character and architectural or historic interest of the building and its setting, and that features of special interest remain intact and unimpaired. Proposals should be based on a clear understanding of the importance of the building / place / heritage asset, and should support the best viable use that is compatible with the fabric, setting and character of the building. Applicants should justify their proposals, and show why alteration or demolition of a listed building is desirable or necessary.

6.14 Consent for the display of advertisements or signs on a listed building should only be forthcoming where these are carefully designed and located to respect the architectural form and detailing of the building, and meet the requirements of strategic policy on the Control of Outdoor Advertisements.

6.15 Proposals for the total demolition of a listed building or any significant part of it must not be permitted unless there are exceptional reasons why it cannot be retained in its original or a reasonably modified form. Where consent to demolish a listed building is granted, this should normally be conditional on prior agreement for the redevelopment of the site and appropriate arrangements for recording the building prior to its demolition.

### **Historic Parks, Gardens and Demesnes**

6.16 Planning permission should not be granted for development that would lead to the loss of, or cause harm to, the overall character, principal components or setting of Historic Parks, Gardens and Demesnes.

6.17 In assessing applications for development in or adjacent to Historic Parks, Gardens and Demesnes, particular account should be taken of the impact of the proposal on the archaeological, historical or botanical interest of the site. The integrity and overall quality and setting of the site including its original design concept and other associated features, including contribution to local landscape character, should where possible be maintained. In cases where approval is to be granted, the planning authority should seek to ensure the accurate recording of distinctive features that will be lost as a result of the development, by way of planning conditions.

### **Conservation Areas**

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<sup>36</sup> Section 80 of the Planning Act (NI) 2011, requires the Department to compile a list of buildings of special architectural or historic merit.



6.18 In managing development within a designated Conservation Area the guiding principle is to afford special regard to the desirability of enhancing its character or appearance where an opportunity to do so exists, or to preserve its character or appearance where an opportunity to enhance does not arise. Accordingly, there will be a general presumption against the grant of planning permission for development or conservation area consent for demolition of unlisted buildings, where proposals would conflict with this principle. This general presumption should only be relaxed in exceptional circumstances where it is considered to be outweighed by other material considerations grounded in the public interest. In the interest of protecting the setting of designated Conservation Areas, new development in proximity needs to be carefully managed so as to ensure it respects its overall character and appearance. Important views in and out of the Conservation Area should be retained.

6.19 In the interests of preserving or enhancing the character or appearance of a Conservation Area, development proposals should:

- be sympathetic to the characteristic built form of the area;
- respect the characteristics of adjoining buildings in the area by way of its scale, form, materials and detailing;
- not result in environmental problems such as noise, nuisance or disturbance;
- protect important views within, into and out of the area;
- protect trees and other landscape features contributing to the character or appearance of the area;
- conform with the guidance set out in any published Conservation Area design guides; and
- only consider the demolition of an unlisted building where the planning authority deems that the building makes no material contribution to the character or appearance of the area and subject to appropriate arrangements for the redevelopment of the site.

6.20 Consent for the display of advertisements in or close to a Conservation Area should only be granted where they would not adversely affect the overall character, appearance or setting of the area.

### **Areas of Townscape Character (ATC)<sup>37</sup>**

6.21 In managing development within ATCs designated through the LDPs process, the council should only permit new development where this will maintain or enhance the overall character of the area and respect its built form.

6.22 The demolition of an unlisted building in an ATC should only be permitted where the building makes no material contribution to the distinctive character of the area and subject to appropriate arrangements for the redevelopment of the site.

6.23 Consent for the display of an advertisement in an ATC should only be granted where the overall character and appearance of the area will be maintained, and the

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<sup>37</sup> For the purpose of the SPSS all references to Areas of Townscape Character should be read as including Areas of Village Character.

proposal meets the requirements of strategic policy on the Control of Outdoor Advertisements.

### **Non-Designated Heritage Assets**

6.24 The effect of an application on the significance of a non-designated heritage asset such as an unlisted vernacular building<sup>38</sup>, or historic building of local importance<sup>39</sup> should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Councils may wish to bring forward bespoke local policies for such buildings.

#### **Enabling Development**

6.25 Enabling development is a development proposal that is contrary to established planning policy and in its own right would not be permitted. Such a proposal may however be allowed where it will secure the long term future of a significant place<sup>40</sup> and will not materially harm its heritage value or setting. Enabling development typically seeks to subsidise the cost of maintenance, major repair, conversion to the optimum viable use of a significant place where this is greater than its value to its owner or market value.

6.26 The justification for allowing the enabling development lies in the over-riding public benefit to the conservation of the significant place and its sustainable future use which would be derived from the implementation of the principal proposal which otherwise would have little prospect of being carried out.

6.27 Within this context councils may bring forward local plan policies to provide the flexibility to accommodate such unforeseen imaginative proposals which are clearly in the public interest.

### **Implementation**

6.28 The potential for loss or damage to archaeological sites and the built heritage as a result of unsympathetic development is a material consideration in the determination of planning applications and the outworking of this through the development management system will be the primary mechanism for the implementation of the regional strategic policy. However, an essential prerequisite for this, particularly in the context of a plan-led system, will be the LDP.

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<sup>38</sup> Vernacular buildings reflect the local 'folk tradition' and are typical of a common type of building in a particular locality, generally pre 1925. For more details refer to 'A Sense of Loss – The Survival of Rural Traditional Buildings in Northern Ireland', published by Doe, March 1998.

<sup>39</sup> A historic building of local importance, is a building, structure or feature, whilst not statutory listed, has been identified by the council as an important part of their heritage, due to its local architectural or historic significance.'

<sup>40</sup> A significant place means any part of the historic environment that has heritage value including scheduled monuments, archaeological remains, historic buildings (both statutory listed or of more local significance) together with any historically related contents, industrial heritage, conservation areas, or a historic park, garden or demesne.

6.29 The LDP, should identify the main<sup>41</sup> built and archaeological heritage features, where they exist within the plan area (as detailed below), and bring forward appropriate policies or proposals for their protection, conservation and enhancement. It should also take into account the implications of its other local policies and proposals on all features of the archaeological and built heritage and their settings.

- **World Heritage Sites (WHS):** WHSs are designated under the UNESCO World Heritage Convention of 1972 on the basis of their acknowledged 'Outstanding Universal Value'. The Giant's Causeway and Causeway Coast World Heritage Site is currently the only WHS in Northern Ireland inscribed on the World Heritage list. It is inscribed because its natural and geological features are held to be of Outstanding Universal Value. Given their acknowledged international importance, it will be appropriate for a LDP having a WHS within the plan area, to identify the site and its broader setting and to include local policies or proposals to safeguard the Outstanding Universal Value of such sites and their settings from inappropriate development.
- **Archaeological Sites and Monuments:** Monuments in State Care and scheduled monuments and all other sites and monuments located within the plan area. Where appropriate, LDPs should designate Areas of Significant Archaeological Interest (ASAs). Such designations seek to identify particularly distinctive areas of the historic landscape in Northern Ireland. They are likely to include a number of individual and related sites and monuments and may also be distinguished by their landscapes character and topography. Local policies or proposals for the protection of the overall character and integrity of these distinctive areas should be included in LDPs, where relevant.<sup>42</sup>

LDPs should also highlight, for the information of prospective developers, those areas within settlement limits, where, on the basis of current knowledge, it is likely that archaeological remains will be encountered in the course of continuing development and change. These will be referred to as areas of archaeological potential.

- **Listed Buildings:** These are designated by the Department as being of 'special architectural or historic interest' under Section 80 of the Planning Act (NI) 2011. Whilst it may be impractical for a LDP to identify all current listed buildings throughout the plan area, it may be appropriate to highlight particular listed buildings and their settings which are integral to the character and inform broader heritage designations. These could include areas of townscape / village character or Local Landscape Policy Areas (LLPAs) within and adjoining settlements.

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<sup>41</sup> It may not be feasible for the LDP to identify and bring forward policies specific to individual heritage assets.

<sup>42</sup> The Historic Monuments Council is a statutory body appointed to advise the Department on the exercise of its powers under the Historic Monuments and Archaeological Objects (NI) Order 1995, particularly

- **Historic Parts, Gardens and Demesnes:** A Register of Parks, Gardens and Demesnes of special historic interest in Northern Ireland, based on a comprehensive inventory, is held by the Department<sup>43</sup>. There are also a number of parks, gardens and demesnes which retain only some elements of their original form. These are included in an appendix to the main register as 'supplementary' sites. At present there are over 300 sites entered in the Register, including 'supplementary' sites. Councils should identify Historic Parks, Gardens and Demesnes along with their settings through the LDP, having regard to the register and supplementary lists; and bring forward local policies or proposals for the protection of the overall character and integrity of these distinctive areas, in consultation with the Department.
  
- **Conservation Areas:** Existing Conservation Areas have been designated by the Department under the Planning (NI) Order 1991<sup>44</sup>. These are areas of special architectural or historic interest, the character and appearance of which it is desirable to preserve or enhance. LDPs should identify existing Conservation Areas within the plan area and may include local policies or proposals for their protection and / or, enhancement. Proposed new Conservation Areas or alterations to existing designations may also be brought forward by the council or the Department, where appropriate<sup>45</sup>.
  
- **Areas of Townscape or Village Character:** Many areas within settlements do not have the distinctive character to warrant Conservation Area designation. However, because of their own unique identity, it may be appropriate to identify and define these as areas of townscape or village character. Local policies or proposals and guidance for such areas should also be included in the plan or where appropriate in supplementary planning guidance.
  
- **Local Landscape Policy Areas (LLPAs):** These consist of those features and areas within and adjoining settlements considered to be of greatest amenity value, landscape quality or local significance and therefore worthy of protection from undesirable or damaging development. They may include:
  - archaeological sites and monuments and their surroundings;
  - listed and other locally important buildings and their surroundings;
  - river banks and shore lines and associated public access;
  - attractive vistas, localised hills and other areas of local amenity importance; and
  - areas of local nature conservation interest, including areas of woodland and important tree groups.

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<sup>43</sup> [www.doeni.gov.uk/niea](http://www.doeni.gov.uk/niea)

<sup>44</sup> Article 50 The Planning (NI) Order 1991

<sup>45</sup> Section 104, 'The Planning Act' 2011

6.30 LDPs should, where appropriate, designate LLPAs and bring forward local policies and guidance to maintain the intrinsic landscape, environmental value and character of such areas.

## APPENDIX THREE

### **Planning Policy Statement (PPS) 6 Planning, Archaeology and the Built Environment**

The information below has been extracted from PPS 6.

#### **Development Plans**

In preparing development plans the Department will take full account of the implications of proposed land use zonings, locations for development and limits of development on all features of the archaeological and built heritage and their settings within a plan area. Such features will normally be identified as part of the process of Countryside Assessment carried out in association with plan preparation. Development plans may also include local policies for the protection and conservation of specific features of the archaeological and built heritage.

#### **Archaeological Policies**

##### **The Preservation of Archaeological Remains and their Settings**

In all cases the desirability of preserving an archaeological site or monument and its setting, whether scheduled or otherwise, is a material consideration in determining planning applications. Accordingly in assessing the archaeological implications of a development proposal, the Department will consider whether it would damage or destroy the site or monument, result in inappropriate change to its setting or whether the existing quality and character of the site or monument would be retained.

##### **Policy BH 1 The Preservation of Archaeological Remains of regional Importance and their Settings**

**The Department will operate a presumption in favour of the physical preservation in situ of archaeological remains of regional importance and their settings. These comprise monuments in State Care, scheduled monuments and other important sites and monuments which would merit scheduling. Development which would adversely affect such sites of regional importance or the integrity of their settings will not be permitted unless there are exceptional circumstances.**

##### **Justification and Amplification**

State Care and scheduled monuments together represent those archaeological sites and monuments which are of greatest importance within Northern Ireland. It is particularly important that they are preserved in situ and within an appropriate setting. Accordingly the Department will operate a presumption against proposals which would damage or destroy such remains, or which would have an adverse impact on their setting. While the Department will take into account all material considerations in assessing development proposals affecting sites of regional importance, exceptions to this policy are likely only to apply to proposals of overriding importance in the Northern Ireland context.

Monuments in State Care are protected and managed as a public asset by the Department's Environment and Heritage Service on behalf of present and future generations. They represent that part of the rich archaeological and historic heritage of Northern Ireland which is presented for public access, education and enjoyment. In assessing proposals for development in the vicinity of these monuments the Department will pay particular attention to the impact of the proposal on:-

- the critical views of, and from the site or monument;
- the access and public approaches to the site or monument; and
- the understanding and enjoyment of the site or monument by visitors.

There are some 1,350 scheduled monuments in Northern Ireland. Once a site or monument has been scheduled it benefits from statutory protection and scheduled monument consent is required from the Department for any works affecting it (see Annex B). Accordingly where applications for planning permission are submitted which involve works affecting a scheduled monument the Department would encourage the submission of an application for scheduled monument consent in order that these may be considered concurrently.

Not all important archaeological remains meriting preservation are yet scheduled. The programme of scheduling is on-going and every effort is made to include a balanced sample of site types throughout Northern Ireland based on the criteria set out in Annex B. Accordingly in assessing development proposals affecting sites which would merit scheduling the Department will proceed as for State Care and scheduled monuments and only permit development in exceptional circumstances.

## **Policy BH 2 The Protection of Archaeological Remains of Local Importance and their Settings**

**Development proposals which would adversely affect archaeological sites or monuments which are of local importance or their settings will only be permitted where the Department considers the importance of the proposed development or other material considerations outweigh the value of the remains in question.**

### Justification and Amplification

While the vast majority of archaeological sites and monuments in Northern Ireland are not scheduled, they are all capable of providing evidence about our past. Many are archaeologically important in the local context or valued by the community and therefore require safeguarding through the planning process. The Department considers a number of factors in assessing the local significance of archaeological sites and monuments. These factors should be viewed as indicators which contribute to a wider judgement based on the individual circumstances of a case and may include one or more of the following:

- appearance distinctive features in the landscape/townscape or local landmarks;
- quality: well-preserved or extensive buried remains;

- folklore/historical interest: association with a person or event in local tradition or legend;
- group value: one of a number of locally important sites; and
- rarity: a locally rare example.

In cases where development proposals affect archaeological sites and monuments or their settings which are not of regional or local importance the Department will still have regard to the desirability of preserving such remains and their settings. On many occasions it will be possible to avoid conflicts with archaeological interests, particularly through seeking suitable alternative sites for development. However where it is decided that development may proceed this will be conditional on appropriate archaeological mitigation measures (see Policy BH 4).

### **Policy BH 3 Archaeological Assessment and Evaluation**

**Where the impact of a development proposal on important archaeological remains is unclear, or the relative importance of such remains is uncertain, the Department will normally require developers to provide further information in the form of an archaeological assessment or an archaeological evaluation. Where such information is requested but not made available the Department will normally refuse planning permission.**

#### Justification and Amplification

Prospective developers need to take into account archaeological considerations and should deal with them from the beginning of the development control process. The needs of archaeology and development can often be reconciled, and potential conflict avoided or much reduced, if developers discuss their proposals with the Department at an early stage. Flexibility is much more difficult and expensive to achieve once detailed designs have been drawn up and finance arranged.

It is therefore in the developers own interests to establish whether a site is known or likely to contain archaeological remains as part of their assessment of its development potential prior to submitting a planning application. The first step will be to consult the Northern Ireland Monuments and Buildings Record which contains database information on all known archaeological sites and monuments and which is maintained by the Environment and Heritage Service. Informal discussions at this time will help to provide prospective developers with advance warning of the archaeological sensitivity of a site. Development plans may also afford some assistance to prospective developers (see para 2.5 – 2.7).

In certain cases following submission of a planning application the Department may use its powers contained in the General Development Order to request further information in the form of an archaeological assessment or an archaeological evaluation. An archaeological assessment normally entails a desk based study, by a qualified archaeologist, of existing information including records of previous discoveries, historic maps or geophysical surveys. An archaeological field evaluation involves ground surveys and limited and targeted licensed excavation which is quite distinct from full archaeological excavation. Evaluations of this kind help to define the importance, character and extent of the archaeological remains



that may exist in the area of a proposed development, and thus indicate the weight which should be attached to their preservation. They may also provide information useful for identifying potential options for minimising or avoiding damage. Such information will permit informed and reasonable planning decisions to be taken by the Department.

#### **Policy BH 4: Archaeological Mitigation**

**Where it is decided to grant planning permission for development which will affect sites known to contain archaeological remains, the Department will impose conditions to ensure that appropriate measures are taken for the identification and mitigation if the archaeological impacts of the development, including where appropriate the completion of a licensed excavation and recording of remains before development commences.**

##### Justification and Amplification

In some circumstances it will be possible to permit development proposals which affect archaeological remains to proceed provided appropriate archaeological mitigation measures are in place which preserve the remains in the final development or ensure excavation recording prior to destruction.

Mitigation may require design alterations to development schemes, for example, the use of foundations which avoid disturbing the remains altogether or minimise the potential damage, or by the careful siting of landscaped or open space areas. There are techniques available for sealing archaeological remains underneath buildings or landscaping, thus securing their preservation for the future even though they remain inaccessible for the time being.

The excavation recording of remains is regarded by the Department as a second best option to their physical preservation. The science of archaeology is developing rapidly and excavation means the total destruction of evidence (apart from removable objects) from which future techniques could almost certainly extract more information than is currently possible. Excavation is also expensive and time consuming, and discoveries may have to be evaluated in a hurry against an inadequate research framework. The preservation in situ of important archaeological remains is therefore always to be preferred.

There will however be occasions, particularly where archaeological remains of lesser importance are involved when the Department may decide that the significance of the remains is not sufficient when weighted against all other material considerations, including the importance of the development, to justify their physical preservation in situ and that the development should proceed. In such cases developers will be required to prepare and carry out a programme of archaeological works using professional archaeologists and working to a brief prepared by the Department.

In certain cases the Department may be able to offer some financial support for archaeological mitigation to be carried out where the developer is a registered charity or similar non profit-making body, or in the case of an individual who does not have the means to fund such work. The Department must however be extremely

selective in its choice of projects for funding. The excavation strategy must reflect current academic research priorities identified in consultation with Environment and Heritage Service. Funds will not be made available unless the destruction of a site is imminent and unavoidable, as the result of planning approval and the Department will have regard for the cost of archaeological mitigation set against the overall cost of the development.

It should be noted that an offer to facilitate excavation by developers will not justify a grant of planning permission for development which would damage or destroy archaeological remains whose physical preservation in situ is both desirable (because of their level of importance) and feasible.

### Discovery of Previously Unknown Archaeological Remains

Archaeological research continues and new and exciting discoveries are made. The discovery of archaeological remains, which have not been previously known, may therefore represent a material change which can affect the nature of development which will be permitted in respect of an area within a settlement, or in the countryside.

Indeed in spite of the best pre-panning application research there may be occasions when the presence of archaeological remain only becomes apparent once an approved development has actually commenced<sup>46</sup>. Developers may wish to consider insuring themselves against the risk of a substantial loss while safeguarding the interest of historic remains unexpectedly discovered on site. On rare occasions the importance of such remains may merit their scheduling. In that event developers would need to seek separate scheduled monument consent before they continue work. It is also open to the Department to revoke a planning permission if deemed necessary, in which case there is provision for compensation. In the majority of cases, however, it should prove possible for differences to be resolved voluntary discussion and for a satisfactory compromise to be reached.

### **World Heritage Site Policy**

The criteria for selection of cultural and natural sites of outstanding universal value to be included in the World Heritage List are contained in the “Operational Guidelines for the Implementation of the World Heritage Convention” published by UNESCO. No additional statutory controls follow on from inclusion of a site in this List. Inclusion does, however, highlight the outstanding international importance of the site as a key material consideration in the determination of planning and/or listed building consent applications and appeals.

### **Policy BH 5: The Protection of World Heritage Sites**

**The Department will operate a presumption in favour of the preservation of World Heritage Sites. Development which would adversely affect such sites or**

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<sup>46</sup> The Historic Monuments and Archaeological Objects (NI) Order 1995 requires the reporting of the discovery of any archaeological object.

**the integrity of their settings will not be permitted unless there are exceptional circumstances.**

#### Justification and Amplification

World Heritage Sites are places or buildings of outstanding universal value, and accordingly the Department attaches great weight to the need to protect them for the benefit of future generations as well as our own. Development proposals affecting such sites or their settings may be compatible with this objective, but will always be carefully scrutinised for their likely effect on the site or its setting in the longer term. The Department will pay particular attention to the impact of proposals on: -

- the critical views of, and form the site;
- the access and public approaches to the site; and
- the understanding and enjoyment of the site by visitors.

There is currently only one World Heritage Site in Northern Ireland, the Giant's Causeway, the setting of which has not yet been formally identified by the Department. As an interim measure until such time as a new development plan is prepared for this area and this matter is addressed, development proposals within a 4 kilometre radius of the site will be subject to particular scrutiny by the Department.

#### **Historic Parks, Gardens and Demesnes Policy**

Information on parks, gardens and demesnes of special historic interest in Northern Ireland is currently being prepared by the Department for inclusion in a register. While no additional statutory controls will follow on from inclusion of a site in the register, the effect of proposed development on a park, garden or demesnes or its setting included in the register is a material consideration in the determination of planning and/or listed building consent applications and appeals.

#### **Policy BH 6: The Protection of Parks, Gardens and Demesnes of Special Historic Interest**

**The Department will not normally permit development which would lead to the loss of, or cause harm to, the character, principal components or setting of parks, gardens and demesnes of special historic interest. Where planning permission is granted this will normally be conditional on the recording of any features of interest which will be lost before development commences.**

#### Justification and Amplification

The character and appearance of the modern landscape of Northern Ireland owes much too planned landscape enhancement carried out since the 17<sup>th</sup> century, and many of the hedgerow trees or tree stands which are seen in the countryside today were once planned and planted as part of land management measures. This has resulted in a rich legacy of gardens, parks and demesnes of archaeological, historical and botanical interest. Demesnes with their distinct boundary features also make a valuable contribution to the quality and character of the local landscape, whether or not the original house survives, while those parks, gardens and demesnes that are open to the general public provide an important informal

recreational resource. The Department considers it important therefore that these valuable features of our built heritage are protected from development which would harm their historic character.

In assessing proposals for development in or adjacent to parks, gardens and demesnes of special historic interest particular attention will be paid to the impact of the proposal on:-

- the archaeological, historical or botanical interest of the site;
- the site's original design concept, overall quality and setting;
- trees and woodland and the site's contribution to local landscape character;
- any buildings or features of character within the site including boundary walls, pathways, gardens terraces or water features; and
- planned historic views of or from the site or buildings within it.

In assessing proposals which would affect those parks, gardens and demesnes which retain only some elements of their original form i.e. those supplementary sites identified as an appendix to the proposed register, the Department will consider the need to retain distinctive elements of such sites as features within the changing landscape.

Where a decision is taken to permit development which would result in the loss of any distinctive features of parks, gardens and demesnes, the Department will normally require developers to carry out recording, working to a brief prepared by the Department, so that knowledge of this part of our landscape heritage is not entirely lost.

### **Listed Building Policies**

The issues that are generally relevant to the consideration of all listed building consent applications and planning applications affecting a listed building are:

- (a) the importance of the building, its intrinsic architectural and historic interest and rarity, in the context of Northern Ireland and in local terms;
- (b) the particular physical features of the building (which may include its design, plan, materials or location) which justify its inclusion in the list: list descriptions may draw attention to features of particular interest or value, but they are not exhaustive and other features of importance (e.g. interiors) may come to light after the building's inclusion in the list;
- (c) the building's setting and its contribution to the local scene, which may be very important, e.g. where it forms an element in a group, park, garden or other townscape or landscape, or where it shares particular architectural forms or details with other buildings nearby; and
- (d) the extent to which the proposed works would bring substantial benefits for the community, in particular by contributing to the economic regeneration of the area or the enhancement of its environment (including other listed buildings).

## **Policy BH 7: Change of Use of a Listed Building**

**The Department will normally permit the change of use of a listed building where this secures its upkeep and survival and the character and architectural or historic interest of the building would be preserved or enhanced. Proposals for a change of use should incorporate details of all intended alterations to the building and its curtilage to demonstrate their effect on its appearance, character and setting.**

### Justification and Amplification

The key to the survival and upkeep of listed buildings is to keep them in active use. While the most appropriate use of an historic building will often be that for which it was designed, the Department accepts that new compatible uses should be found for historic buildings where they can no longer reasonably be expected to serve their original use and where the integrity of their built fabric is under threat. In an effort to increase public awareness of historic buildings in need of restoration, the Ulster Architectural Heritage Society in association with the Environment and Heritage Service has published "Buildings at Risk", a series of catalogues of historic and other important buildings in Northern Ireland which appear to be threatened. It is likely that the survival of such buildings will only be achieved through sympathetic schemes for their appropriate re-use. In most cases this will mean a use which is economically viable and may necessitate some degree of adaptation to the building.

The range and acceptability of possible uses is therefore one of the most important considerations for all those involved in considering the future of a listed building. There should be an assessment of the building and how best to plan a new use which respects the features and characteristics of that building. To find a use first and then seek to adapt the building to accommodate it is likely to result in difficulties and expense as well as an unnecessary loss of historically and architecturally important material. Any assessment therefore requires balancing the economic viability of possible uses against the effect of any changes they entail in the special architectural and or historic interest of the building in question. The impact of the proposed new use to the established character of the building and the surrounding area should also be assessed. In principle the aim should be to identify the best viable use that is compatible with the fabric, setting and character of the building and it should be noted that this may not necessarily be the most profitable use.

The conversion of a listed building to a new use will therefore normally only be acceptable to the Department, where it safeguards the future interest of the building and any alterations proposed meet the criteria set out in Policy BH 8. While the Department will also consider the potential impact of the proposed use on its other land use policies it is acknowledged that a flexible approach may be necessary on occasion to secure a building's survival. Where a particular compatible use is preferred, but restoration for that use is unlikely to prove economically viable, the availability of grant assistance should be investigated to redress the financial loss.

If a building is so sensitive that it cannot sustain any alterations to keep it in viable economic use, its future may nevertheless be secured by charitable or community

ownership. The building could be preserved for its own sake for local people and visitors, where possible with non-destructive community uses such as meeting rooms. The National Trust and local building preservation trusts have rescued many buildings in this way. The voluntary sector is well placed to help in heritage matters and much can be achieved by tapping into local support, resources and loyalty. Buildings preserved in this manner can make an important contribution to community life, local education and the local economy.

### **Policy BH 8 Extension or Alteration of a Listed Building**

**The Department will normally only grant consent to proposals for the extension or alteration of a listed building where all the following criteria are met:**

- (a) the essential character of the building and its setting are retained and its features of special interest remain intact and unimpaired;**
- (b) the works proposed make use of traditional and/or sympathetic building materials and techniques which match or are in keeping with those found on the building; and**
- (c) the architectural details (e.g. doors, gutters, windows) match or are in keeping with the building.**

#### Justification and Amplification

Many listed buildings can tolerate some degree of thoughtful alteration or extension to accommodate continuing or new uses. Indeed, cumulative changes reflecting the history of use and ownership have contributed to the special interest of some buildings. Nevertheless listed buildings do vary greatly in the extent to which they can accommodate change without loss of special interest. Some may be sensitive even to slight alterations, especially those buildings with important interiors and fittings. Some listed buildings are subject to successive applications for alteration or extension. In such cases it should be borne in mind that minor works of indifferent quality, which may seem individually of little significance, can cumulatively reduce a listed building's special interest.

The Department will consider whether the works proposed would cause unnecessary damage to the historic structure, whether the additions are in keeping with other parts of the building and if any new internal or external features harmonise with their surroundings.

In judging the effect of any alteration or extension the Department will assess the elements that make up the special interest of the building in question. They may comprise not only the obvious visual features such as a decorative façade or, internally, staircases or decorated plaster ceilings, but also the spatial layout of the building, the archaeological or technological interest of the surviving structure and the use of materials. These elements are often as important in Northern Ireland's simple vernacular buildings as in its grander architectural set pieces. All proposals for alteration should also be based on a proper understanding of the structure of the listed building, because it is vitally important that new work does not weaken the structural integrity of the building.

The listing grade of a building is not of itself a reliable indicator of its sensitivity to alteration or extension. Many Grade B buildings may have been specifically listed because they are relatively unaltered examples of a once common vernacular building type. Accordingly they can as readily have their special interest ruined by an inappropriate alteration or extension as can Grade A or B+ structures.

Where a building forms part of an architectural group, for example as part of a terrace, then it may not be possible to make even minor external alterations without disrupting the architectural unity of the group. Even painting or stone cleaning of only one unit in a terrace can have this effect.

The preservation of facades alone and the gutting and reconstruction of interiors, is rarely an acceptable approach to the re-use of listed buildings and will only be permitted in exceptional circumstances. Where this approach has been accepted in the past by the Department this has applied mainly in cases where historic buildings have sustained major damage unintentionally. By adopting a flexible and imaginative approach historic buildings can be adapted to new beneficial uses without destroying their architectural and/or structural integrity. For example, maximum office floor loadings are never needed in all parts of a building, so any unusually heavy loads can often be accommodated in stronger areas such as basements.

Further detailed guidance on alterations to listed buildings is given in Annex E. The Department would also draw attention to BS 7913: 1998 which provides advice, information and guidance on the principles of the conservation of historic buildings.

### *Building Regulations*

The Department would encourage the Building Control sections of local councils to adopt a sympathetic approach when exercising their responsibilities under the Building Regulations with regard to the repair or conversion of listed buildings. The intentions of the Regulations can usually be achieved without the removal or mutilation of features which contribute to the character of a listed building and are part of the reason for it being listed. It will be necessary for a dialogue to exist between Building Control and the building owner, where the owner too is prepared to adapt his ideas in order to achieve a maximum of conservation and a minimum of destruction without loss of safety.

### *The Needs of People with Disabilities*

The Department recognises the importance of allowing people with disabilities dignified and easy access to and within listed buildings. If access requirements are treated in an integrated and systematic way, and a flexible and pragmatic approach is taken, then it is normally possible to plan suitable access for people with disabilities without compromising a listed building's special interest. In the case of a disabled person living in a listed building, then the Department will be sympathetic to their special needs when considering applications for listed building consent.

## **Policy BH 9 The Control of Advertisement on a Listed Building**

**The Department will normally only grant consent for advertisements or signs on a listed building where these are carefully designed and located to respect the architectural form and detailing of the building.**

#### Justification and Amplification

Many listed buildings are in commercial use and already display signs or advertisements of some sort. These in themselves may be of historic interest or of some artistic quality, and where this is the case the Department will not normally permit their removal or significant alteration.

New sign or advertisements can have a major impact on the appearance, and thus the character of a listed building. Where a proposal to display signs or advertisements on a listed building is considered acceptable in principle they should be designed to complement the age and architectural style of the building. They should also be carefully located and should not obscure, overlap or cut into any architectural detailing or structural divisions of the building. These considerations will to a large extent dictate the scale of any signage. In many cases a handwritten timber board or a brass plate will provide the most acceptable solution. The use of standard corporate signage by major companies will generally be inappropriate.

Projecting signs can often adversely affect the appearance and character of listed buildings and will therefore require very careful consideration. Where their presence is considered acceptable particular attention will be paid to size, design and materials. In most situations signs and advertisements displayed on listed buildings should not be illuminated. Where illumination is justified it should be achieved unobtrusively: light fittings mounted above and projecting forward of the sign will not normally be acceptable.

#### **Policy BH 10 Demolition of a Listed Building**

**There will be a presumption in favour of retaining listed buildings. The Department will not permit the demolition of a listed building unless these are exceptional reasons why the building cannot be retained in its original or a reasonably modified form. Where, exceptionally, listed building consent is granted for demolition this will normally be conditional on prior agreement for the redevelopment of the site and appropriate arrangements for recording the building before its demolition.**

#### Justification and Amplification

The destruction of historic buildings is very seldom necessary for reasons of good planning; more often it is a result of neglect or the failure to make imaginative efforts to find new uses for them or to incorporate them into a new development.

There are many outstanding buildings for which it is in practice almost inconceivable that consent for demolition would ever be granted. The demolition of any Grade A or Grade B+ building should be wholly exceptional and should require the strongest justification. Indeed consent will not be given for the total or substantial demolition of any listed building without clear and convincing evidence that all reasonable efforts have failed; that preservation in some form of charitable or community ownership is



not possible or suitable; or that redevelopment would produce substantial benefits for the community which would decisively outweigh the loss resulting from demolition.

While it is acknowledged that very occasionally demolition of a listed building will be unavoidable, consent will not be given simply because redevelopment is economically more attractive to the developer than repair and re-use of the building, or because the developer acquired the building at a price that reflected the potential for redevelopment rather than the condition and constraints of the existing historic building.

Accordingly where proposed works would result in the total demolition of a listed building, or of any significant part of it, the Department, in addition to the general criteria set out in para 6.5 above, will address the following factors:

- (a) the condition of the building, the cost of repairing and maintaining it in relation to its importance and to the value derived from its continued use. Any such assessment will be based on consistent and long-term assumptions. Less favourable levels of rents and yields cannot automatically be assumed for historic buildings. Also, they may offer proven technical performance, physical attractiveness and functional spaces that, in an age of rapid change, may outlast the short-lived and inflexible technical specifications that have sometimes shaped new developments. Any assessment will also take account of the possibility of tax allowance and exemptions and of grants from public or charitable sources. In the rare cases where it is clear that a building has been deliberately neglected in the hope of obtaining consent for demolition, less weight will be given to the costs of repair;
- (b) the adequacy of efforts made to retain the building in use. The Department will require to be satisfied that genuine efforts have been made without success to continue the present use or to find compatible alternative uses for the building. This includes the offer of the unrestricted freehold of the building on the open market at a realistic price reflecting the building's condition (the offer of a lease only, or the imposition of restrictive covenants, would normally reduce the chances of finding a new use for the building); and
- (c) the merits of alternative proposals for the site. Whilst these are a material consideration, the Department's view is that subjective claims for the architectural merits of proposed replacement buildings will not in themselves be held to justify the demolition of any listed building. There may very exceptionally be cases where the proposed works would bring substantial benefits for the community, which have to be weighed against the arguments in favour of preservation. Even in these circumstances it will often be feasible to incorporate listed buildings within new development.

It is preferable that proposals for the demolition of a listed building are not considered in isolation from proposals for subsequent redevelopment. The Department may therefore request developers to submit detailed drawings illustrating the proposed redevelopment of the site to accompany a listed building consent application for demolition.

In the rare cases where the Department decides to grant consent for demolition of a listed building conditions will normally be imposed:

- prohibiting demolition of the building until planning permission has been granted and contracts have been signed for the approved redevelopment of the site; and
- requiring, where appropriate, the recording of the building prior to its demolition

### **Policy BH 11 Development affecting the Setting of a Listed Building**

**The Department will not normally permit development which would adversely affect the setting of a listed building. Development proposals will normally only be considered appropriate where all the following criteria are met:**

- (a) the detailed design respects the listed building in terms of scale, height, massing and alignment;**
- (b) the works proposed make use of traditional or sympathetic building materials and techniques which respect those found on the building; and**
- (c) the nature of the use proposed respects the character of the setting of the building**

#### Justification and Amplification

The setting of a listed building is often an essential part of the building's character. This is particularly the case where a demesnes, landscaped parkland, garden or grounds have been laid out to complement the design or function of the building. The economic viability as well as the character of listed buildings within such planned settings may suffer where inappropriate new development isolates them from their surroundings or degrades their landscape setting. This can effectively rob such buildings of much of their interest and the contribution they make to the local countryside or townscape. Where a listed building has no ancillary land, for example in a town or village street, its setting may include a number of other properties or even the whole street. These buildings may not necessarily be of great individual merit but combine to produce a visual harmony which enriches the setting of the listed building.

Any proposals for development which by its character or location may have an adverse effect on the setting of listed buildings will require very careful consideration by the Department. This will apply even if the development would only replace a building which is neither itself listed nor immediately adjacent to a listed building. Development proposals some distance from the site of a listed building can sometimes have an adverse effect on its setting e.g. where it would affect views of an historic skyline, while certain proposals, because of the nature of their use, can adversely affect the character of the setting of a listed building or group of buildings through noise, nuisance and general disturbance.

The design of new buildings planned to stand alongside historic buildings is particularly critical. Such buildings must be designed to respect their setting, follow

fundamental principles of scale, height, massing and alignment and use appropriate materials. This does not mean however that new buildings have to copy their older neighbours in detail. Some of the most interesting streets in our towns and villages include a variety of building styles, materials and forms of construction of several different periods, which together form a visually harmonious group.

The extent to which proposals will be required to comply with the criteria in Policy BH 11 will be influenced by a variety of factors: the character and quality of the listed building; the proximity of the proposal to it; the character and quality of the setting; and the extent to which the proposed development and the listed building will be seen in juxtaposition.

Where it is considered that a development proposal may affect the setting of a listed building the Department will normally require the submission of detailed drawings which illustrate the relationship between the proposal and the listed building. Where appropriate the Department will use its powers contained in the General Development Order to request applicants to supply such additional information on the proposed development as is considered necessary to allow proper determination.

### **Conservation Area Policies**

Conservation area designation introduced control over the demolition of unlisted buildings within conservation areas. Legislation requires that “where any area is for the time being designated as a conservation area special attention shall be paid to the desirability of preserving or enhancing its character or appearance.” This will be the prime consideration for the Department in the exercise of its planning functions within conservation areas. There will be a presumption against the grant of planning permission or conservation area consent where development proposals would conflict with this requirement, although in exceptional cases this presumption may be overridden in favour of development which is desirable on the ground of some other public interest. The desirability of preserving or enhancing a conservation area is also considered to be a material consideration in assessing proposals for development beyond its boundaries which would however affect its setting, or views into or out of the area.

### **Policy BH 12: New Development in a Conservation Area**

**The Department will normally only permit development proposals for new buildings, alterations, extensions and changes of use in, or which impact on the setting of, a conservation area where all the following criteria are met:**

- (a) the development preserves or enhances the character and appearance of the area;**
- (b) the development is in sympathy with the characteristic built form of the area;**
- (c) the scale, form, materials and detailing of the development respects the characteristics of adjoining buildings in the area;**

- (d) the development does not result in environmental problems such as noise, nuisance or disturbance which would be detrimental to the particular character of the area;**
- (e) important views within, into and out of the area are protected;**
- (f) trees and other landscape features contributing to the character or appearance of the area are protected; and**
- (g) the development conforms with the guidance set out in conservation area documents.**

### Justification and Amplification

The Department does not wish to stifle development in conservation areas. The emphasis will be on the careful control and positive management of change, to enable the area to remain alive and prosperous, but at the same time to ensure that any new development accords with the area's special architectural or historic interest.

Designation as a conservation area put an onus on prospective developers to produce a very high standard of design, which respects or enhances the particular qualities of the area in question. Notwithstanding the acceptability of proposals in terms of other planning issues, where any proposed development would harm the character, appearance or setting of a conservation area it will not normally be permitted.

### *General Criteria*

General issues to be taken into account in assessing development proposals in a conservation area include the appropriateness of the overall massing of the development, its scale (the expression of size indicated by the windows, doors, floor heights, and other identifiable units), its proportions and its relationship with its context i.e. whether it sits comfortably. Development should be in harmony with, or complimentary to, its neighbours having regard to the adjoining architectural styles. The use of materials generally matching those which are historically dominant in the area is important, as is the need for the development not to have a visually disruptive impact on the existing townscape. It should also, as far as possible, fit into the "grain" of the conservation area, for example, by respecting historic layout, street patterns or existing land form. It is also important where new uses are proposed that these respect the unique character and general ambience of a conservation area, for example certain developments may adversely affect the character of a conservation area through noise, nuisance and general disturbance.

### *New Buildings*

The Development of new buildings in a conservation area should be a stimulus to imaginative, high quality design, and seen as an opportunity to enhance the area. What is important is not that new buildings should directly imitate earlier styles, rather than they should be designed with respect for their context, as part of a larger whole which has a well-established character and appearance of its own. Therefore while development of a gap site in a traditional terrace may require a very sensitive design approach to maintain the overall integrity of the area in other cases modern

designs sympathetic and complimentary to the existing character of the area may be acceptable.

### *Alterations and Extensions*

Proposals for the alteration or extension of properties in a conservation area will normally be acceptable where they are sensitive to the existing building, in keeping with the character and appearance of the particular area and will not prejudice the amenities of adjacent properties. Extensions should be subsidiary to the building, of an appropriate scale, use appropriate materials and should normally be located on the rear elevations of a property. Very careful consideration will be required for alterations and extensions affecting the roof of a property as these may be particularly detrimental to the character and appearance of a conservation area.

### *Change of Use*

In assessing applications for the change of use of a property within a conservation area consideration will be given to both the general land use policies of the Department and the impact of the proposed use on the character and appearance of the conservation area. New uses will normally only be acceptable where any associated external alterations, for example new shopfronts, are sympathetic to their setting and relate in scale, proportions and materials to the remainder of the building and the local street scene.

### *Trees*

Trees often make an important contribution to the appearance and character of conservation areas. In assessing development proposals affecting a conservation area the Department will therefore take into account their potential impact on existing trees. Where such trees make an important visual, historic or amenity contribution to the area and should be retained the Department will seek appropriate protection measures through the imposition of planning conditions or may consider making a tree preservation order. In some instances development may be acceptable subject to conditions requiring new tree planting or re-planting.

### *The Setting of Conservation Areas*

Special care is also needed in the location and design of development proposals close to a conservation area. Inappropriate development outside a conservation area can have a detrimental effect on the character and setting of the area. In such cases new development will be expected to respect the character and appearance of the adjacent conservation area while the Department will also seek to retain important views in and out of the area.

### *Design Guides*

As each conservation area has its own unique style and character, local policies and guidance for the conservation and enhancement of the area are set out in the relevant designation documents and design guides, which are produced by the Department in consultation with local district councils and the Historic Buildings Council. These constitute supplementary planning guidance and are considered to

be an important material consideration. The Department will therefore attached great weight to the need for proposals for new development to accord with the specific guidance drawn up for each particular conservation area.

#### *Information to accompany Planning Applications*

The Department will normally require detailed drawings to accompany all planning applications in a conservation area which illustrate the proposals in its context. Where outline applications are submitted information on matters such as levels, materials/finishes, colouring, landscaping, access and parking may also be required to ensure that the Department can make a full assessment of the impact of development proposals. Where appropriate the Department will use its powers contained in the General Development Order to request applicants to supply such additional information on the proposed development as is considered necessary to allow proper determination. Where, on the basis of illustrative details submitted, the Department decides to grant outline permission for development a condition will then normally be imposed requiring that any reserved matters, application be based on such details.

#### **Policy BH 13: The Control of Advertisements in a Conservation Area**

**The Department will not normally grant consent for the display of advertisements in or close to a conservation area which would adversely affect the character, appearance or setting of the area or which would be detrimental to public safety.**

#### Justification and Amplification

Many conservation areas include thriving commercial areas where the normal range of advertisements is to be expected, provided they do not detract from visual amenity. The Department accepts that such outdoor advertising is essential to commercial activity, but in view of the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas, it is also considered reasonable that more exacting standards of advertisement control should apply within such areas.

In assessing proposals for advertisements in a conservation area the Department will give careful consideration to the impact of the proposal on the visual amenity and overall character of the area. Particular regard will be paid to the scale and proportions of the sign, the materials used and whether it is illuminated. Consent will not normally be granted for advertisements which are inappropriate to the architectural style or character of the building on which it is proposed or which would detract from the area in general. Similarly signage on the upper floors of buildings and the internal illumination of signs will not normally be acceptable. Proposals for large advertisement hoardings or which would result in a proliferation of signs can seriously harm the character and appearance of a conservation area and will therefore normally be refused consent. Additional guidance for the display of advertisements in particular conservation areas is set out in the relevant designation documents and design guides produced by the Department.

## **Policy BH 14: Demolition in a Conservation Area**

**The Department will normally only permit the demolition of an unlisted building in a conservation area where the building makes no material contribution to the character or appearance of the area. Where conservation area consent for demolition is granted this will normally be conditional on prior agreement for the redevelopment of the site and appropriate arrangements for recording the building before its demolition.**

### Justification and Amplification

The demolition of even a single building and the construction of a new building or buildings in its place could result in the character or appearance of a conservation area, or part of it, being severely prejudiced. In such circumstances the whole purpose of designating the conservation area could be undermined.

The Department will operate a presumption in favour of retaining any building which makes a positive contribution to the character or appearance of a conservation area. In determining proposals for demolition of unlisted buildings the Department will therefore take account of the part played in the architectural or historic interest of the area by the building for which demolition is proposed, and in particular of the wider effects of demolition on the building's surroundings and on the conservation area as a whole. In assessing proposals the Department will have regard to the same broad criteria outlined above for demolition of listed buildings (see para 6.5 and policy BH 10 above).

In cases where demolition may be appropriate, for example where a building does not make any significant contribution to a conservation area, the Department will normally require full information and detailed plans about what is proposed for the site after demolition to accompany conservation area consent applications.

Where the Department decides to grant consent for demolition of a building in a conservation area conditions will normally be imposed:

- requiring the redevelopment of the site to be based on previously agreed detailed proposals;
- prohibiting demolition of the building until planning permission has been granted and contracts have been signed for the approved redevelopment of the site<sup>47</sup>; and
- requiring, where appropriate, the recording of the building prior to its demolition.

The preservation of the public elevations alone of an unlisted building in a conservation area which makes a material contribution to its appearance or character will only be acceptable in exceptional circumstances, provided the scale of the overall development proposal will not be detrimental to the areas character or appearance and the scheme can be implemented without serious risk to the retained

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<sup>47</sup> This power is provided by Article 45 (5) of the 1991 Planning Order as applied by Article 51 (5) and is to ensure that conservation areas are not marred by vacant sites awaiting redevelopment

structure. In such cases the Department, in addition to requiring detailed plans of the proposed development, will require the submission of a structural engineer's report indicating what measures are to be taken to protect those parts of the building to be retained during construction work.

#### *Article 4 Directions*

While designation as a conservation area introduces additional controls over development the Development also has the power to make Article 4 directions removing certain permitted development rights<sup>48</sup>. The Department's general policy is that such rights should not normally be withdrawn without clear justification. While the designation of a conservation area in itself does not automatically justify the making of Article 4 directions, they may have a role to play if they would help to protect features that are key elements within the area. Accordingly the Department will consider making such directions where:

- a clear assessment of an areas special architectural and historic interest has been undertaken;
- the importance to that special interest of the features to be included in the direction is established;
- there is evidence of local support for the direction and the need for the direction is agreed with the local district council; and
- the direction involves the minimum withdrawal of permitted development rights necessary to achieve its objective.

#### Non-listed Vernacular Buildings

The vernacular buildings of Northern Ireland have developed as a response to local economic and social circumstances, using simple styles and largely local materials. Buildings of character which display local traditions of architecture and design are an important part of our heritage and regional identity. It is therefore sensible to sympathetically rehabilitate and improve such vernacular buildings, rather than replace them or allow them to fall derelict.

#### **Policy BH 15: The Re-use of Non-listed Vernacular Buildings**

**The Department will normally permit the sympathetic conversion of non-listed vernacular buildings to other appropriate uses where this would secure their upkeep and retention. In the countryside conversion to residential use will normally only be considered appropriate where the building to be converted is an important element in the landscape and of local architectural merit or historic interest. All proposals for conversion will normally be required to meet all of the following criteria:**

- (a) the building is structurally sound and capable of conversion;**
- (b) the scheme of conversion will not have an adverse effect on the character or appearance of the locality and safeguards the form,**

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<sup>48</sup> Permitted development rights are contained in the Planning (General Development) Order 1993 (as amended)



**character and architectural features, design and setting of the existing building. This will involve retention of existing door and window openings and minimising the number of new openings. Details such as door and window design, external surfaces, rainwater goods and means of enclosure should be of traditional or sympathetic design and materials;**

**(c) the new use would not cause unacceptable adverse effects on the amenities of nearby residents or other land uses;**

**(d) normally no new extensions are involved; and**

**(e) access and other necessary services are provided without adverse impact on the character of the locality.**

### Justification and Amplification

Changing patterns of life mean that many traditional local buildings are no longer needed for their original use. These include mills, schools, churches as well as dwellings. While many of these vernacular buildings are now vacant and are at risk from dereliction, they represent a valuable historic resource and their appropriate re-use would contribute to sustainable development and many encourage the social and economic regeneration of particular areas.

The Department wishes therefore to encourage the re-use of such vernacular buildings by sympathetic renovation or conversion for a range of appropriate uses. This may include proposals for tourism or recreation use, small-scale employment uses or new rural enterprises. All development proposals for the conversion of a vernacular building should involve a minimum of work and should maintain or enhance the existing character of the building and its setting. Approval will not normally be given to a scheme involving substantial demolition or extensions which significantly alter the appearance or character of the building. Design therefore is particularly important and where extensions or external alterations are proposed, these must reflect the scale, massing, materials and detailing of the existing property. All proposals will therefore be critically assessed as to their contribution to the conservation of the building to be converted.

Great care will be necessary in assessing proposals for conversion to residential use as this can be particularly detrimental to the fabric and character of certain buildings. In the countryside, and in particular in Green Belts and Countryside Policy Areas the Department will normally only consider a relaxation of its normal planning policies for residential development, where:

- residential use is a key to the conservation of a building of local architectural merit or historic interest which comprises an important element of the landscape;
- the conversion scheme involves minimal alteration; and
- the overall scale of the proposal and intensity of use is appropriate to the locality and would not prejudice the objectives behind Green Belt and Countryside Policy Area designation.

Each proposal will be determined on its own merit. It should be noted that the application of this policy relates only to schemes of sympathetic conversion. The Department would therefore stress that a grant of planning permission for conversion to residential use will not in itself be considered sufficient grounds to subsequently permit the replacement of the building with a new building.

Where a conversion scheme to residential use in the countryside is considered acceptable any residential curtilage to be created, as part of the proposal should not have a harmful effect on the character of the countryside, particularly in Areas of Outstanding Natural Beauty and other areas of landscape quality. In certain cases it may be necessary to remove permitted development rights to protect the character of the converted buildings or the landscape generally.

## APPENDIX Four

### **Addendum to Planning Policy Statement 6: Areas of Townscape Character**

The addendum provides additional planning policies relating to Areas of Townscape Character, for demolition of buildings, new development and the control of advertisements. It embodies the Government's commitment to sustainable development and environmental stewardship. Development plans may incorporate local policies and/or guidance to protect the character of specific Areas of Townscape Character. All references to Areas of Townscape Character should be read as including Areas of Village Character.

The following planning policy has been extracted for information.

#### **Policy ATC 1 Demolition Control in an Area of Townscape Character**

**There will be a presumption in favour of retaining any building which makes a positive contribution to the character of an Area of Townscape Character. The Department will normally only permit the demolition of an unlisted building in an Area of Townscape Character where the building makes no material contribution to the distinctive character of the area.**

**Where permission for demolition is granted this will normally be conditional on prior agreement for the redevelopment of the site.**

#### Justification and Amplification

Areas of Townscape Character (ATCs) exhibit a distinct character normally based on their historic built form or layout. For the most part this derives from the cumulative impact of the area's buildings, their setting, landscape and other locally important features.

The demolition of a building or buildings in an ATC can significantly erode the character, appearance and integrity of such areas. Demolition can be particularly damaging in cases where it is proposed in isolation, that is, where there are no proposals for the redevelopment of the site. In order to prevent demolition damaging the distinctive character and appearance of an ATC, the Department will operate a presumption in favour of retaining any building which makes a positive contribution to the character of the area.

To help secure the upkeep, vitality and appearance of ATCs the Department will permit proposals for the appropriate renovation and refurbishment of existing buildings for their continued use, or for alternative uses which accord with the Department's policies for the area. Any external alterations associated with such proposals will be required to maintain or enhance the overall character of the area and respect the built form of the ATC (see Policy ATC 2).

Where the demolition of an unlisted building in an ATC is proposed the key considerations that will be taken into account are:

- the contribution of the building to the ATC and the effect of its demolition on the distinctive character of the area; and

- whether the quality of proposals for the redevelopment of the site will maintain or enhance the distinctive character of the area.

Where the Department decides to permit demolition conditions will normally be imposed:

- requiring the redevelopment of the site to be based on previously agreed detailed proposals; and
- prohibiting demolition of the building until contracts have been signed for the approved redevelopment of the site.

## **Policy ATC 2**

### **New Development in an Area of Townscape Character**

**The Department will only permit development proposals in an Area of Townscape Character where the development maintains or enhances its overall character and respects the built form of the area.**

**The Department will also require that any trees, archaeological or other landscape features which contribute to the distinctive character of the area are protected and integrated in a suitable manner into the design and layout of the development.**

#### Justification and Amplification

It is important to protect the distinctive character and intrinsic qualities of Areas of Townscape Character (ATCs). Sensitive planning controls are therefore necessary to ensure that both the individual and cumulative effects of development do not detract from the character, appearance and quality of these areas.

Designation as an ATC puts an onus on prospective developers to produce a high standard of design, which respects and is sympathetic to the particular qualities of the area in question. Notwithstanding the acceptability of proposals in terms of other planning issues, the Department will operate a presumption against development that would detract from or fail to maintain the character of the distinct townscape displayed within an ATC.

In effect, new development in an ATC should seek to reinforce local identity and promote quality and sustainability in order to respect and, where possible, enhance the distinctive character and appearance of the area. In assessing the acceptability of proposals, the Department will have regard to the same broad criteria outlined for Conservation Areas in paragraphs 7.6 – 7.10 of PPS 6 (there are reproduced in Annex A).

The Department will give sympathetic consideration to development proposals within an ATC for people with disabilities or others whose mobility is impaired. If imaginative and innovative design approaches are fully explored the Department believes it is possible to provide satisfactory solutions to such proposals, without compromising the character and built form of these areas.

Proposals for residential development are also subject to the provisions of Policy QD1 of PPS 7 'Quality Residential Environments.' This includes specific reference to ATCs and advises that in such areas:

*“ housing proposals will be required to maintain or enhance their distinctive character and appearance. In the primarily residential parts of these designated areas proposals involving intensification of site usage or site coverage will only be permitted in exceptional circumstances.”*

As each ATC has its own distinct character and intrinsic qualities, the Department will draw up supplementary planning guidance for individual ATCs. This, together with any local policies formulated, will normally be incorporated into the relevant development plan and will be taken into account as a material consideration in assessing development proposals. In addition, the Department would draw attention to other best practice conservation guidance and codes that can assist developers and their professional advisors in preparing proposals affecting buildings within a ATC. For examples, British Standards (BS) 7913: 'The Principles of the Conservation of Historic Buildings'.

In view of the potential impact a development proposal may have in an ATC, the Department will generally require detailed drawings to accompany all planning applications. Where appropriate, the Department will use its powers contained in the General Development Order to request applicants to supply such additional information on the proposed development as is considered necessary to allow proper determination. This may include a design concept statement.

### **Policy ATC 3: The Control of Advertisements in a Area of Townscape Character**

**The Department will only grant consent for the display of an advertisement in an Area of Townscape Character where:**

- (a) it maintains the overall character and appearance of the area; and**
- (b) it does not prejudice public safety.**

#### Justification and Amplification

Areas of Townscape Character (ATCs) may contain commercial areas or individual business premises where outdoor advertising is essential to their activities. It is important however to exercise appropriate control over advertisements to ensure they do not detract from the distinctive characteristics and amenity of these areas or prejudice public safety.

In assessing the impact of an advertisement or sign on amenity within an ATC, particular regard will be paid to the scale, size, proportions, dominance and siting of the sign, the materials used, whether it is illuminated and whether the proposal will result in clutter. An advertisement should also respect the building onto which it is to be fixed and in particular have regard to any architectural detailing.

Supplementary guidance drawn up for ATCs may include advice on the display of advertisements which will be taken into account in assessing proposals. General

policy guidance on advertisements is set out in Planning Policy Statement (PPS) 17 'The Control of Outdoor Advertisements'.

## **Planning Policy Statement 7: Quality Residential Environments**

Below are extracts from PPS 7 relating to ATCs.

### **Policy QD 1: Quality in New Residential Development**

**In Conservation Areas and Areas of Townscape Character housing proposals will be required to maintain or enhance their distinctive character and appearance. In the primarily residential parts of these designated areas proposals involving intensification of site usage or site coverage will only be permitted in exceptional circumstances.**

#### Justification and Amplification

Infill housing in established residential areas will not always be appropriate, particularly in many older residential areas with distinctive townscapes, often dating from the Victorian and Edwardian periods. Here people are attracted by the high quality of these areas and developers will often seek to maximise the amount of floorspace that they can fit onto any given plot. Intensifying the scale and massing of buildings in such areas can however adversely affect local character and lead to a loss of valued open garden spaces, mature trees and shrubs. When combined with the impact of ancillary activities such as car parking and refuse storage, such development, if unchecked, can undermine the qualities that people value, and damage our built heritage.

Accordingly in assessing housing proposals in Conservation Areas and Areas of Townscape Character, the protection of the existing character and distinctive qualities of the area will be paramount. Notwithstanding the Department's broader policy to promote more housing within urban areas, proposals in the primarily residential parts of these designated areas which involve intensification of site usage or site coverage will not normally be acceptable. Such proposals usually involve demolition, plot sub-division or plot amalgamation which can be particularly detrimental to their character and appearance. Proposals involving intensification in these areas will only be permitted in the following exceptional circumstances:

- (a) an extension in keeping with the scale and character of the dwelling and its surroundings; or
- (b) the sympathetic conversion of a large dwelling in appropriate locations to smaller units; or
- (c) the development of a significant gap site within an otherwise substantial and continuously built up frontage provided this would be of a density and character prevailing in the area.

In all cases developers should note that the demolition of existing property will not create a presumption that permission for more intensive and high density development will be granted.

#### Policies for Established Residential Areas

Development plans may include specific policies for the control of housing development in established residential areas, particularly those which display considerable townscape character. These policies will seek to ensure that the form, density, and character of new housing is in harmony with adjacent housing and does not detract from the environmental quality, residential amenity and established character of the wider housing area.

## Appendix Five

### **Planning Policy Statement 23: Enabling Development for the Conservation of Significant Places (April 2014)**

The purpose of this policy is to provide the flexibility to accommodate unforeseen imaginative proposals for the maintenance, major repair or conversion to the viable use of a significant place where this is greater than its value to its owner or market value.

Below are extracts from the planning policy.

‘Enabling development’ is a development proposal that is contrary to established planning policy and in its own right would not be permitted. Such a proposal may however be allowed where it will secure a proposal for the long term future of a significant place. Proposals relating to the significant place will be referred to as the ‘principal proposal’.

The justification for allowing the enabling development lies in the over-riding public benefit to be derived from the implementation of the principal proposal which otherwise would have little prospect of being carried out.

#### **Policy ED 1 – Enabling Development**

**Proposals involving enabling development relating to the re-use, restoration or refurbishment of significant places will only be permitted where it can be demonstrated by the applicant in the submission for planning permission that all of the following criteria are met.:**

- a. the significant place to be subsidised by the proposed enabling development will bring significant long-term benefits according to its scale and location;
- b. the conservation of the significant place would otherwise be either operationally or financially unviable;
- c. the scale of the proposed enabling development is precisely defined at the outset;
- d. the impact of the enabling development does not exceed what is necessary to support the conservation of the significant place;
- e. sufficient subsidy is not available from any other source;
- f. the public benefit decisively outweighs the disbenefits of departing from other planning policies;
- g. it will not materially harm the heritage values of the significant place or its setting;
- h. it avoids detrimental fragmentation of the management of the significant place;
- i. it will secure the long term future of the significant place and, where applicable, its continued use for a sympathetic purpose; and
- j. it is necessary to resolve problems arising from the inherent needs of the heritage asset, rather than circumstances of the present owner, or the purchase price paid.



**The Best Practice Guidance ‘Assessing Enabling Development’ accompanying this PPS will be taken into account in considering proposals. In considering enabling development proposals developers are encouraged to enter into pre-application discussions with the planning authority. In all cases proposals must not prejudice road safety.**

**The benefits to be derived from the conservation of the significant place will be secured either by conditional grant of planning permission or conditional grant accompanied by a planning agreement.**

#### Justification and Amplification

For the purposes of this PPS, ‘significant place’ means any part of the historic environment that has heritage value including scheduled monuments, archaeological remains, historic buildings (both statutorily listed or of more local significance) together with any historically related contents, industrial heritage, conservation areas or a historic park, garden or demesne.

It is intended that this policy will only be used as a last resort where the long-term public benefit of securing a significant place decisively outweighs the disadvantage of departing from normal policy presumptions. It allows for assessment of these proposals as a preliminary requirement and is not to be implemented if the planning authority is not convinced that the public benefit will be gained.

Enabling development will often be located close to the principal development. In some instances, however, it may be more appropriate for the enabling development to be located elsewhere, as long as cross-funding measures are secured by way of a planning agreement. A proposal for enabling development will also generally be located within the same planning authority boundary as the public benefit it facilities.

#### Pre-application Discussion

Developers are encouraged to enter into pre-application discussions with the planning authority: to assess the impact of the enabling element of the proposed development; to establish the level of detail required; to discuss the need to submit a ‘full’ as opposed to ‘outline’ planning application; and to avoid unrealistic expectations.

In some instances, planning conditions attached to a permission will be sufficient to ensure that the public benefits are delivered. In other, more complex cases, and where there is need to secure the long-term management arrangements, a planning agreement as set out in Article 40 of the Planning (Northern Ireland) Order 1991 will be required. The pre-application process will assist in identifying which option is best suited to the particular proposal.

#### Statement of Justification

Applications incorporating enabling development should be accompanied by a Statement of Justification. This statement should include sufficient, detailed financial information as is necessary to allow the planning authority, and/or its consultees to make an informed decision upon the application. In particular, the information

provided on the enabling development component should be sufficiently detailed to allow the planning authority to validate the need for, and access the scale of the enabling development; and consider the impact on private concerns where this coincides with the public interest.

The information supplied by the developer should cover all the financial aspects of the proposed enabling development, in a sufficient degree of detail to enable scrutiny and validation by the planning authority in consultation with its economists. This applies both to the assessment of need and the assessment of the scale of the enabling development necessary to meet that need. The onus is on the developer to demonstrate that sufficient funds are not available from any other source, such as grant aid.

Enabling development must always be justified by the inherent lack of viability of the heritage asset, not an owner's inability to fund a commercially viable scheme.

Before purchasing a site, a developer will typically undertake an appraisal to determine the appropriate purchase price that will provide the desired capital return upon their investment. In some cases, a developer may pay a higher price for a development opportunity (hope value) than is justified by market conditions. Alternatively, market conditions may change to such an extent that the developer may not be able to realise the anticipated return on their investment. Both of these scenarios may give rise to calls for enabling development proposals, but cannot justify them.

Since this financial assessment is central to the question of whether enabling development is required, failure by the applicant to provide such information may result in refusal of planning permission. Developer concerns regarding the disclosure of commercially sensitive information do not outweigh the need for accurate financial information to be provided, as it is the financial case for the enabling development which forms a key part of any assessment.

Planning permission will not be departed from for only short-term or temporary public gains. The Statement of Justification will demonstrate that the benefits to be derived from the principal proposal shall be retained. Therefore, it must be clear that once completed, the principal proposal can meet recurring costs or, if it cannot, that suitable financial provisions are in place to provide sufficient funds to guarantee its long term sustainability.